

LOVES PARK CITY COUNCIL AGENDA—MARCH 11, 2019- 6 P.M.
AT CITY HALL COUNCIL CHAMBERS, 100 HEART BLVD.,
LOVES PARK, 61111

- I. CALL TO ORDER

- II. INVOCATION & PLEDGE OF ALLEGIANCE
 - 1. Invocation given by Pastor Dave Aldridge of Bethany Presbyterian Church followed by the Pledge of Allegiance.

- III. ROLL CALL

- IV. APPROVAL OF CITY COUNCIL MINUTES OF PREVIOUS MEETING

- V. COMMUNICATIONS, MAYOR'S REPORT AND ANNOUNCEMENTS

- VI. APPROVE PAYMENT OF BILLS

- VII. OFFICER'S REPORTS
 - 1. Public Safety
 - 2. Public Works

- VIII. COMMITTEE REPORTS
 - 1. Finance and Administration/Jacobson (Finance, Personnel, Buildings & Grounds, Purchasing, Recreation & Beautification)
 - 2. Public Safety/Allton (Police, Fire, Public Safety & Health)
 - 3. Public Works/Schlensker (Street, Water & Utilities)
 - 4. Codes and Regulations/Peterson (Ordinances & Licenses)
 - 5. Community Development/Frykman (Development, Planning, Zoning, Annexation, Building & Drainage)

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Loves Park City Council Agenda
March 11, 2019

IX. UNFINISHED BUSINESS

X. NEW BUSINESS

XI. RESOLUTIONS & MOTIONS

- 1. Resolution authorizing the release of Executive Session Minutes.**
- 2. Resolution establishing and adopting the Information Security Policy (“Loves Park’s Privacy Policy”) assuring compliance with the GLB Act, and the Safeguard Rule, the Disposal Rule and the PIP Act.**

XII. ORDINANCES 2ND READING

XIII. ORDINANCES 1ST READING

- 1. An ordinance authorizing the City to enter into the Third Amendment to the Redevelopment Agreement for SCL Business Park, LLC dated November 6, 2014.**
- 2. An ordinance authorizing the City of Loves Park to enter into a Redevelopment Agreement with Interstate Boulevard Illinois Becknell Investors LLC.**

XIV. PUBLIC COMMENT

XV. EXECUTIVE SESSION

XVI. GOOD OF THE ORDER

XVII. ADJOURNMENT



CITY COUNCIL, CITY OF LOVES PARK, ILLINOIS

Journal of Proceedings

Regular Meeting, Monday, March 4, 2019

Loves Park City Hall

Mayor Gregory Jury called the meeting to order at 6:00 p.m.

Alderman A. Marie Holmes opened the meeting with an invocation, followed by the Pledge of Allegiance.

Present: Mayor Gregory Jury

Aldermen Mark Peterson, A. Marie Holmes, Robert Schlensker, Doug Allton, John Jacobson, Jim Puckett, Clint Little, John Pruitt, Charles Frykman

Absent: Alderman Nancy Warden

Also Present: City Clerk Bob Burden
City Attorney Gino Galluzzo

1. Approve Minutes 02/25/19 The Journal of Proceedings for the regular meeting of February 25, 2019, was approved as submitted by the city clerk on a motion by Alderman Little. Second by Alderman Schlensker. Motion carried. 9 Ayes (Aldermen Peterson, Holmes, Schlensker, Allton, Jacobson, Puckett, Little, Pruitt, Frykman) 1 Absent (Alderman Warden)
2. Commerce Commission Hearing Received a notice from the Illinois Commerce Commission of a hearing regarding Northern Illinois Gas Company, to be held March 11, 2019, in the offices of the Commission, Chicago, IL. Placed on file.
3. Dr. Kathleen Smith/ Companion Animal Clinic Years Of Service. Police Chief Chuck Lynde presented Dr. Kathleen Smith of Companion Animal Clinic with a plaque in recognition for 27 years of service to the Loves Park Police Department's K-9 Program. Dr. Smith has donated routine, emergency, and surgical care and guidance when needed for K-9's Leri, Nory, and Rico. She has always played a very significant role in keeping our K-9's healthy and comfortable during their years of service.
4. Thanks For Recognition Dr. Kathleen Smith thanked everyone for the recognition and the opportunity to provide care to the K-9s.
5. Water Department Bills Alderman Jacobson presented the Water Department bills dated February 25, 2019 in the amount of \$44,432.75, and moved that they be paid. Second by Alderman Peterson. Motion carried. 9 Ayes (Aldermen Peterson, Holmes, Schlensker, Allton, Jacobson, Puckett, Little, Pruitt, Frykman) 1 Absent (Alderman Warden)
6. General Fund Bills Alderman Jacobson presented the General Fund and all other bills dated February 25, 2019, in the amount of \$324,834.30, and moved that they be paid. Second by Alderman Peterson. Motion carried. 9 Ayes (Aldermen Peterson, Holmes, Schlensker, Allton, Jacobson, Puckett, Little, Pruitt, Frykman) 1 Absent (Alderman Warden)
7. Public Safety Report Alderman Allton presented the Police Department Report dated March 4, 2019; to be placed on file.
8. Public Works Report Alderman Schlensker presented the Water Department Report dated February 28, 2019; presented the Street Department Report dated March 4, 2019, to be placed on file.

9. Finance & Administration Committee
Alderman Jacobson of the Finance and Administration Committee presented General Fund and all other bills dated March 4, 2019 in the amount of \$223,474.32, for consideration at next week's city council meeting; presented the minutes from the committee meeting held February 25, 2019, to be placed on file.
10. Public Works Committee
Alderman Schlensker of the Public Works Committee presented the Water Department list of bills dated March 4, 2019 in the amount of \$55,118.69, for consideration at next week's city council meeting.
11. Young At Heart Parade Road Closure
Alderman Jacobson presented the following resolution; **WHEREAS**, The City of Loves Park is sponsoring the YOUNG AT HEART PARADE in the City of Loves Park, which constitutes a public purpose. **WHEREAS**, this YOUNG AT HEART PARADE will require the temporary closure of the northbound lanes of Highway 251, a State Highway in the City of Loves Park, from 4800 North Second Street to 6300 North Second Street. **WHEREAS**, Section 4-408 of the Illinois Highway Code authorizes the Department of Transportation to issue permits to local authorities to temporarily close portions of State Highways for such public purposes. **NOW THEREFORE, BE IT RESOLVED**, by the City Council of the City of Loves Park, that permission to close off the northbound lanes of Highway 251 from 4800 North Second Street to 6300 North Second Street, as above designated, be requested of the Department of Transportation. **BE IT FURTHER RESOLVED**, that this closure shall occur during the approximate time period between 9:00 a.m. and 12:00 noon on May 25, 2019. **BE IT FURTHER RESOLVED**, that traffic from that closed portion of highway shall be detoured over routes with an all-weather surface that can accept the anticipated traffic, which will be maintained to the satisfaction of the Department and which is conspicuously marked for the benefit of traffic diverted from the State Highway. (The parking of vehicles shall be prohibited on the detour routes to allow an uninterrupted flow of two-way traffic*). The detour route shall be as follows: Two-way traffic will be coordinated in the southbound portion of the highway. *To be used when appropriate. **BE IT FURTHER RESOLVED**, the City of Loves Park assumes full responsibility for the direction, protection, and regulation of the traffic during the time the detour is in effect. **BE IT FURTHER RESOLVED**, that police officers or authorized flaggers shall at the expense of the City of Loves Park, be positioned at each end of the closed section and at other points (such as intersections) as may be necessary to assist in directing traffic through the detour. **BE IT FURTHER RESOLVED**, that police officers, flaggers, and officials shall permit emergency vehicles in emergency situations to pass through the closed area as swiftly as is safe for all concerned. **BE IT FURTHER RESOLVED**, that all debris shall be removed by the City of Loves Park prior to reopening the State Highway. **BE IT FURTHER RESOLVED**, that such signs, flags, barricades, etc., shall be used by the City of Loves Park as may be approved by the Illinois Department of Transportation. These items shall be provided by the City of Loves Park. **BE IT FURTHER RESOLVED**, that the closure and detour shall be marked according to the Illinois Manual on Uniform Traffic Control Devices. **BE IT FURTHER RESOLVED**, that an occasional break shall be made in the procession so that traffic may pass through. In any event, adequate provisions will be made for traffic on intersecting highways pursuant to conditions noted above. (Note: This paragraph is applicable when the Resolution pertains to a Parade or when no detour is required). **BE IT FURTHER RESOLVED**, that to the fullest extent permitted by law, the City of Loves Park shall be responsible for any and all injuries to persons or damages to property, and shall indemnify and hold harmless the Illinois Department of Transportation, its officers, employees and agents from any and all claims, lawsuits, actions, costs and fees (including reasonable attorneys' fees and expenses) of every nature or description, arising out of, resulting from or connected with the exercise of authority granted by the Department which is the subject of this Resolution. The obligation is binding upon the City of Loves Park regardless of whether or not such claim, damage, loss or expense is caused in part by the act, omission or negligence of the Department or its officers, employees or agents.

- 12. Young At Heart Parade Road Closure **BE IT FURTHER RESOLVED**, that the City of Loves Park shall provide a comprehensive general liability insurance policy or an additional insured endorsement in the minimum amount of \$1,000,000.00 per person and \$2,000,000.00 aggregate which has the Illinois Department of Transportation and its officials, employees, and agents as insureds and which protects them from all claims arising from the requested road closing. A copy of said policy or endorsement will be provided to the Department before the road is closed. **BE IT FURTHER RESOLVED**, that a copy of this Resolution be forwarded to the Department of Transportation to serve as a formal request for the permission sought in this Resolution and to operate as part of the conditions of said permission. Second by Alderman Peterson. Motion carried. 9 Ayes (Aldermen Peterson, Holmes, Schlensker, Allton, Jacobson, Puckett, Little, Pruitt, Frykman) 1 Absent (Alderman Warden)
RESOLUTION NO. 19-019

- 13. Closed Executive Session Alderman Jacobson moved to enter into closed executive session pursuant to ILCS 120/2 (c) (5) for purposes of discussing the potential acquisition of real property for the use by the City and review of Closed Executive Session Minutes. Second by Alderman Peterson. Motion carried. 9 Ayes (Aldermen Peterson, Holmes, Schlensker, Allton, Jacobson, Puckett, Little, Pruitt, Frykman) 1 Absent (Alderman Warden)

- 14. Enter Session City Council entered closed executive session at 6:12 p.m.

- 15. Reconvene Regular Order Alderman Little moved to reconvene to the regular order of business at 6:43 p.m. Second by Alderman Schlensker. Motion carried by voice vote.

- 16. Adjourn Alderman Jacobson moved that the meeting be adjourned. Second by Alderman Schlensker. Motion carried by voice vote. The meeting was adjourned at 6:44 p.m.

APPROVED:

Robert J. Burden, City Clerk

STANDING COMMITTEE MEETINGS:

- Community Development: Following Council Meeting
6:15 p.m.

- Finance and Administration: Prior to Council Meeting
5:40 p.m.

- Public Works: Prior to Council Meeting
5:15 p.m.

- Zoning Board of Appeals: 3rd Thursday of the Month
5:30 p.m.



LOVES PARK **POLICE**

540 Loves Park Drive, Loves Park, IL 61111
Phone 815/654-5015 Fax 815/633-0555

To: Alderman Doug Allton
From: Chief Charles Lynde
Date: 03/11/2019
Subject: Police Activity Report

Police activity report for the week of 02/24/2019 through 03/02/2019

Calls for Service	408
Total Number of Arrests	185
Accidents	14

MICHAEL MCCAMMOND
DEPUTY CHIEF OF POLICE

CHARLES LYNDE
CHIEF OF POLICE

SHANE LYNCH
DEPUTY CHIEF OF POLICE

Loves Park Water Department

Weekly Activity Report

Submitted by: Craig McDonald
Department Manager

Date: **2/28/19-3/6/19**

Previous week's activity:

1. Routine work:
 - a. Install new meters
 - b. JULIE locates
 - c. Chemical tests
 - d. Back wash wells as needed
 - e. Read commercial and residential meters
2. Continued radio read meter installation
3. Assisted street dept with snow/ice removal
4. Repair main break at Alpine and Coronet Rd.

Work anticipated for this week:

1. Continue radio read meter installation
2. Assist street dept with snow/ice removal
3. Re organize shop and add storage for meter and radio read stock
4. Set up new utility truck with equipment and emergency lighting
5. Repair main break at 6140 Browns Parkway

Department of Public Works
Street Department Weekly Activity Report

Submitted by: Shannon Messinger
Street Department Manager

Week of March 4, 2019 thru March 11, 2019

Previous week's activity:

1. Salted one minor ice event.
2. Repaired trucks.
3. Filled Potholes.
4. Helped Water Dept. with main breaks.

Proposed work:

1. Fill potholes.
2. Continue working on equipment.
3. Start tree removals.
4. Dump and rinse plow trucks.

**CITY OF LOVES PARK
AGENDA
FINANCE & ADMINISTRATION COMMITTEE
MARCH 11 – 5:40 P.M.
CITY COUNCIL CHAMBERS**

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF MINUTES FROM THE COMMITTEE MEETING HELD MARCH 4, 2019**
4. **ITEMS FOR CONSIDERATION**
 1. Resolution authorizing the release of Executive Session Minutes.
 2. Resolution establishing and adopting the Information Security Policy (“Loves Park’s Privacy Policy”) assuring compliance with the GLB Act, and the Safeguard Rule, the Disposal Rule and the PIP Act.
 3. Resolution authorizing a Third Amendment to the Redevelopment Agreement for SCL Business Park LLC.
 4. Resolution authorizing a Redevelopment Agreement for Interstate Boulevard Illinois Becknell Investors LLC.
5. **LIST OF BILLS**
6. **GENERAL DISCUSSION/PUBLIC COMMENT**
7. **ADJOURN**

FINANCE AND ADMINISTRATION COMMITTEE
MEETING MINUTES

DATE OF MEETING: March 4, 2019

CALLED TO ORDER: 5:30 P.M.

MEMBERS PRESENT: Aldermen John Jacobson, Mark Peterson, Charles Frykman, John Pruitt

ALSO PRESENT: Mayor Jury, Clerk Bob Burden, Steve Thompson, Attorney Galluzzo, A. Marie Holmes, Rob Schlensker, Doug Allton, Jim Puckett, Clint Little, Chief Wiltfang, Chief Lynde

MINUTES APPROVAL: February 25, 2019

Alderman Peterson moved to approve minutes. Second by Alderman Pruitt.
Motion carried. 4 Ayes – 0 Nays

ITEMS FOR CONSIDERATION

1. Resolution authorizing the temporary closure of Highway 251 for the Young At Heart Parade to be held May 25, 2019.

Alderman Peterson moved to approve. Second by Alderman Frykman.
Motion carried. 4 Ayes – 0 Nays

2. List of Bills: No questions or concerns.
3. Adjournment.

Alderman Peterson moved for adjournment. Second by Alderman Frykman
Motion carried. 4 Ayes – 0 Nays

Adjournment: 5:44 P.M.

RESPECTFULLY SUBMITTED: CHAIRMAN JACOBSON OF THE FINANCE COMMITTEE

CITY OF LOVES PARK

BY ALDERMAN

RESOLUTION NO.

DATE: March 11, 2019

DEPARTMENT: City Clerk

RESOLVED, that by the adoption of this resolution,

Pursuant to the requirements of Illinois Compiled Statutes, 5ILCS 120/2.06, the Mayor and City Council have assembled in closed session to review all Executive Session Minutes, and determined that a need for confidentiality does not exist as to the Executive Session Minutes for;

April 23, 2018

May 21, 2018

June 25, 2018

July 30, 2018

August 20, 2018

September 4, 2018

Now therefore be it resolved that the Executive Session Minutes from these meetings are hereby released.

Ald. John Jacobson, Chairman

Ald. Chuck Frykman

Ald. Mark Peterson, Vice Chairman

Mayor Gregory R. Jury

Ald. John Pruitt

Attest: Robert J. Burden

MOTION:
SECOND:
VOTING:

CITY OF LOVES PARK

BY ALDERMAN: John Jacobson

RESOLUTION NO:

COMMITTEE: Finance and Administration

DATE: March 11, 2019

Resolved, by the adoption of this Resolution,

that the City Council of the City of Loves Park establishes and adopts the Information Security Policy (“Loves Park’s Privacy Policy”), Exhibit B attached. The “Loves Park’s Privacy Policy” assures compliance with the GLB Act, the Safeguard Rule, the Disposal Rule and the PIP Act.

MOTION:

SECOND:

Finance and Administration Committee:

Alderman John Jacobson, Chairman

Alderman Mark Peterson

Alderman Chuck Frykman

Alderman John Pruitt

Mayor Greg Jury

ATTEST - Clerk Robert Burden

EXHIBIT A

PRIVACY NOTICE

The City of Loves Park (“Sponsor”) would like to advise you of its privacy policies. Sponsor has collected non-public personal information from your application and consumer reporting agencies. This non-public personal information includes your address and other contact information, demographic background, loan status, family income, social security number, employment information, collection and repayment history, and credit history.

We disclose non-public personal information to third parties: only as necessary to process and service your loan; only as necessary to effect, administer or enforce your loan; with your consent; or as permitted or provided by applicable laws, including the Illinois Freedom of Information Act (“FOIA”) and the Privacy Act of 1974. Applicable laws permit disclosure to third parties for certain purposes. Examples of such disclosures include (i) disclosure in connection with enforcement purposes or litigation, audits or other investigations; (ii) to comply with proper requests under FOIA or other federal, state, or other local laws and regulations; and (iii) to federal and state agencies to the extent specifically permitted or required by law. We do not sell or otherwise make available any information about you to any third parties for marketing purposes.

We protect the security and confidentiality of non-public personal information by limiting and monitoring all physical access to sites where non-public personal information is kept. A complete copy of our written privacy policy is available upon request.

If we decide to change our privacy policy, we will provide you with a revised privacy policy containing such changes.

If you have any questions, please get in touch with Nathan Bruck, Economic Development & Planning Manager, Phone Number: 815-654-5033

SPONSOR:

The City of Loves Park

By: _____

Printed Name: Gregory R. Jury

Title: Mayor

EXHIBIT B

LOVES PARK'S PRIVACY POLICY

The Federal Trade Commission has established policies and procedures for safeguarding Borrower information (the "Safeguard Rule") as required by the GLB Act and also requires that financial institutions take appropriate measures to dispose of Borrower information (the "Disposal Rule"). The Personal Information Act (the "PIP Act") requires any entity that handles, collects, disseminates, or otherwise deals with nonpublic Borrower information (collectively, "Borrower Information") provide notice of any breach of the security of Borrower Information to that person. The Sponsor is subject to the requirements of the PIP Act because the Borrowers provide you with personally identifiable information and other information the Sponsor otherwise obtains about a Borrower in connection with providing a financial product or service to the Borrower.

The Sponsor hereby establishes and adopts the following Information Security Policy ("Privacy Policy") to assure compliance with the GLB Act, the Safeguard Rule, the Disposal Rule and the PIP Act. This Policy is designed to:

- **Ensure the security and confidentiality of the Borrower Information.**
- **Protect against any anticipated threats or hazards to the security or integrity of such information.**
- **Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to Borrowers.**
- **Provide notice to Borrowers in the event a breach in the security protecting the information occurs.**
- **Properly dispose of any of the Borrowers' information.**

A. DEFINITIONS

"Borrower Information" is defined as any record containing nonpublic, personally identifiable information, whether in paper or electronic, that the Sponsor obtains from an applicant, a Borrower, an employee or other third party, in the process of offering a financial product or service from the Sponsor; or such information about a Borrower provided to the Sponsor by another financial institution; or such information that the Sponsor otherwise obtains about a Borrower in connection with providing a financial product or service to the Borrower.

"Non-Record Material" shall mean (i) material not filed as evidence of administrative activity or for the informational content thereof; (ii) extra copies of documents preserved only for convenience of reference; (iii) stocks of printed or reproduced documents kept for supply purposes, where file copies have been retained for record purposes; (iv) books, periodicals,

newspapers, posters, and other library and museum materials made or acquired and preserved solely for reference or exhibition purposes; and (v) private materials neither made nor received by the Sponsor pursuant to state law or in connection with the transaction of the Sponsor's business. Duplicate files, copies, library materials, and stocks of obsolete blank forms or pamphlets originally intended for distribution are not considered to be official records or record copies.

“*Records*” mean all books, papers, maps, photographs, or other official documentary materials, regardless of physical form or characteristics, made, produced, executed, or received by the Sponsor in connection with the transaction of public business and must be preserved as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Sponsor.

“*Record Retention Policy*” means the Sponsor's record retention policy that provides guidance in establishing and maintaining an efficient records management program.

“*Service Providers*” mean all third parties who, in the ordinary course of the Sponsor's business, are provided access to Borrower Information.

C. THE INFORMATION SECURITY POLICY

The five elements of this Policy require the Sponsor to: (i) designate one or more employees to coordinate this Policy, (ii) identify reasonably foreseeable internal and external risks to the security, confidentiality and integrity of Borrower information, (iii) ensure that safeguards are employed to control the identified risks and that the effectiveness of these safeguards is regularly tested and monitored, (iv) select Service Providers that are capable of maintaining appropriate safeguards and require them, by contract, to implement and maintain such safeguards and (v) evaluate and adjust this Policy based on the results of the testing and monitoring, any material changes to operations, or any other circumstances that have or may have a material impact on this Policy.

1. Safeguard Program Coordinator

The Sponsor hereby designates Nathan Bruck as the person who will be responsible for implementing and maintaining this Policy by the Sponsor (the “Safeguard Program Coordinator”). The responsibilities of the Safeguard Program Coordinator include, but are not limited to, the following:

(i) The Safeguard Program Coordinator must identify the individuals at the Sponsor's office who have access to Borrower Information and the Safeguard Program Coordinator must maintain a current listing of these individuals.

(ii) The Safeguard Program Coordinator must identify potential and actual risks to the security and privacy of Borrower Information, evaluate the effectiveness of current safeguards for controlling these risks, design and implement additional required safeguards and regularly monitor and test the application of this Policy.

(iii) The Safeguard Program Coordinator ensure that (i) adequate training and education programs are developed and provided to all employees with access to Borrower Information and that (ii) existing policies and procedures that provide for the security of Borrower Information are reviewed and adequate.

(iv) The Safeguard Program Coordinator must identify Service Providers with access to Borrower Information, ensure that these Service Providers are included within the scope of this Policy and maintain a current listing of these Service Providers.

2. Risk Identification and Assessment

Under the guidance of the Safeguard Program Coordinator, each employee or member of the Sponsor with access to Borrower Information must take steps to identify and assess internal and external risks to the security, confidentiality and integrity of the Borrower Information. At a minimum, such risk assessment must consider: (i) employee training and management, (ii) information systems, including network and software design, (iii) information processing, storage, transmission and disposal and (iv) detecting, preventing and responding to attacks, instructions or other systems failures. The Safeguard Program Coordinator must ensure that risk assessments are conducted at least annually and more frequently when needed.

Employee training and management include:

(i) checking references prior to hiring employees who will have access to Borrower Information;

(ii) asking every new employee to sign an agreement to follow the Sponsor's confidentially and security standards for handling Borrower Information;

(iii) training employees to take basic steps to maintain the security, confidentiality and integrity of Borrower Information, such as: (a) locking rooms and file cabinets where paper records are kept; (b) using password-activated screensavers; (c) using computer passwords with at least six characters long including numbers; (d) changing computer passwords periodically and not posting passwords near employees' computers; (e) referring calls or other requests for Borrower Information to the Safeguard Program Coordinator; and (f) recognizing any fraudulent attempt to obtain Borrower Information and reporting it to the Safeguard Program Coordinator;

(iv) reminding all employees of this Policy and the legal requirements;

(v) limiting access to Borrower Information to employees who have a business reasons for seeing it; and

(vi) imposing disciplinary measures for any breaches.

3. Borrower Information Safeguards and Monitoring

The Safeguard Program Coordinator must verify employees with access to Borrower Information design and implement reasonable safeguards to control identified risks to the security, confidentiality and integrity of Borrower Information and that the effectiveness of these safeguards is monitored regularly. Such safeguards and monitoring must include the following:

a. Employee Management and Training

Safeguards for information security include training of those individuals with authorized access to Borrower Information. The Safeguard Program Coordinator must work develop appropriate training and education programs for all affected current and new employees.

b. Records Safeguards

Safeguards for Records and Non-Record Material containing Borrower Information must include:

- (i) creating and implementing access limitation to Records containing Borrower Information;
- (ii) storing Records containing Borrower Information in a secure area with limited access;
- (iii) protecting Records containing Borrower Information from physical hazards such as fire or water damage;
- (iv) disposing of properly outdated records containing Borrower Information pursuant to the Secured Destruction of Borrower Information section of this Policy;
- (v) disposing of Non-Record Materials containing Borrower Information when they cease to be useful pursuant to the Secured Destruction of Borrower Information section of this Policy; and
- (vi) other reasonable measures to secure Records and Non-Record Materials containing Borrower Information during the course of its life cycle while in the Sponsor's possession or control.

c. Information Systems Safeguards

“Information Systems” include network and software design, as well as data processing storage, transmission and disposal. The Sponsor must implement and maintain safeguards to control the risks to Information Systems, as identified

through the risk assessment process. Safeguards for the Information Systems must include:

- (i) creating and implementing access limitation to Information Systems that stores Borrower Information;
- (ii) using secure, password-protected systems within and outside the Sponsor for access to the Information Systems that stores Borrower Information;
- (iii) regularly obtaining and installing patches to correct software vulnerabilities;
- (iv) permanently removing Borrower Information from computers, diskettes, magnetic tapes, hard drives or other electronic media prior to disposal;
- (v) protecting the Information Systems from physical hazards such as fire or water damage;
- (vi) detecting, preventing and responding to network attacks or other Information Systems failures; and
- (vii) other reasonable measures to secure the Information System that stores Borrower Information during the course of its life cycle while in the Sponsor's possession or control.

4. SERVICE PROVIDERS

The Safeguard Program Coordinator must identify Service Providers with access to Borrower Information. The Safeguard Program Coordinator must ensure that reasonable steps are taken to select and retain Service Providers that are capable of maintaining appropriate safeguards for Borrower Information and must require Service Providers, by contract, to implement and maintain such safeguards.

5. MONITORING AND TESTING SAFEGUARDS

The Safeguard Program Coordinator must develop and implement procedures to test and monitor the effectiveness of information security safeguards. Monitoring levels must be appropriate to the probability and potential impact of the risks identified, as well as the sensitivity of the information involved. Monitoring may include sampling, systems checks, systems access reports and any other reasonable measure.

D. NOTICE OF A BREACH TO ILLINOIS BORROWERS

Following discovery or notification of a breach of the Sponsor's security of the Borrower Information, the Safeguard Program Coordinator shall notify Illinois residents at no charge that there has been a breach. The notice shall be made in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of

the breach and restore the reasonable integrity, security and confidentiality of the data system. The notice may be provided in writing or electronically so long as the electronic notice is consistent with provisions regarding electronic records and signatures for notices legally required to be in writing pursuant to 15 U.S.C. § 7001.

If the Safeguard Program Coordinator notifies more than 1,000 persons of a breach of the security, the Safeguard Program Coordinator shall also notify all Borrower reporting agencies that compile and maintain files on Borrowers on nationwide basis, as defined by U.S.C. Sec. 1681a(p), of the timing, distribution and content of the notices. Such notices to the Borrower reporting agencies will not disclose the names or other personal identifying information of breach notice recipients.

The Safeguard Program Coordinator shall submit a report within five (5) business days of the discovery or notification of a breach of the security of the system data or written material to the Illinois General Assembly. Such report shall include: listing of the breaches; and outlining any corrective measures that have been taken to prevent future breaches of the security of the system data or written material. If the Safeguard Program Coordinator has submitted a report as described in this section, the Safeguard Program Coordinator shall submit an annual report listing all breaches of security of the system data or written materials and the corrective measures that have been taken to prevent future breaches.

E. SECURED DESTRUCTION OF BORROWER INFORMATION

The Sponsor shall dispose Properly Outdated Records and Non-Record Material containing Borrower Information in such a manner as to ensure the security and confidentiality of such information. Pursuant to the Disposal Rule, the Sponsor must take reasonable measures to dispose of Borrower Information to avoid the unauthorized use of, or access to, Borrower Information in connection with its disposal. Although the Disposal Rule does not mandate any one form of disposal, the Sponsor has determined that all shredding shall be done by an authorized vendor (the "Authorized Vendor"). Properly Outdated Records and Non-Record Material containing Borrower Information shall be placed in locked trash bins as located throughout the Sponsor when awaiting disposal by the Authorized Vendor. The Safeguard Program Coordinator shall arrange to have the locked trash bins picked up on a regular schedule. The Authorized Vendor shall transport the locked trash bins in a secure truck to the Authorized Vendor's off-site shredding facility. The Authorized Vendor shall shred the Properly Outdated Records and Non-Record Material containing Borrower Information by its shredding machine.

F. REVIEW AND ADJUSTMENT OF THIS POLICY

The Safeguard Program Coordinator must evaluate and adjust annually this Policy in connection with the results of the testing and monitoring described above, as well as any material changes to the Sponsor's operations, including changes in technology, the sensitivity of Borrower Information and any other circumstances that may reasonably impact this Policy. The Safeguard Program Coordinator and the Committee must review this Policy annually to assure ongoing compliance with GLB Act, the Safeguards Rule, the Disposal Rule, and PIP Act, and as well as consistency with other existing and future laws and regulations.

G. STRICT ADHERENCE TO THE INFORMATION SECURITY POLICY

Employees of the Sponsor are expected to become familiar with the Sponsor's policy regarding information security and to strictly adhere to the procedures outlined in this Policy.

The City of Loves Park

By: _____

Printed Name: Gregory Jury

Title: Mayor

ORDINANCE NO. _____

**AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO THE THIRD
AMENDMENT TO THE REDEVELOPMENT AGREEMENT FOR SCL BUSINESS PARK,
LLC DATED NOVEMBER 6, 2014**

WHEREAS, the City of Loves Park (“City”) is a duly organized and existing municipality created under the provisions of the laws of the State of Illinois, and is now operating under the provisions of the Illinois Municipal Code, as supplemented and amended from time to time; and

WHEREAS, the City has duly established an Industrial Jobs Recovery Law District known and the “Spring Creek Lakes Redevelopment Project Area” under the provisions of the Industrial Jobs Recovery Law, 65 ILCS 5/11-74.6-1 *et seq.* (“Law”), within which Spring Creek Lakes Redevelopment Project Area the City has implemented Tax Increment Financing; and

WHEREAS, the City is authorized under the provisions of Law to enter into agreements which are necessary or incidental to the implementation of the redevelopment plan and project for the Spring Creek Lakes Redevelopment Project Area; and

WHEREAS, the City and SCL Business Park, LLC, an Illinois limited liability company (“Developer”) did enter into that certain Redevelopment Agreement for SCL Business Park, LLC, dated November 6, 2014 (the “Original Agreement”) and that certain First Amendment to the Redevelopment Agreement for SCL Business Park, LLC, dated September 1, 2015 (the “First Amendment”) and that certain Second Amendment to the Redevelopment Agreement for SCL Business Park LLC, dated May 15, 2017 (the “Second Amendment”); and

WHEREAS, the Original Agreement provides for, among other things, the allocation and payment of Available Developer Property Increment to Developer; and

WHEREAS, the Original Agreement allows Developer to assign certain of its rights to receive Available Developer Property Increment thereunder in accordance with certain conditions; and

WHEREAS, the Original Agreement specifically provides that in the event of a sale of any of the Developer property to a third-party, the Developer shall be allowed to assign to said purchaser all future increment associated with the property purchased by said third-party, provided the City should not be required to prorate any calendar year between the assignor and the assignee, and further that any assignment approved shall be subject to the conditions and restrictions relating to payment as set forth in the Original Agreement; and

WHEREAS, Developer is negotiating a Purchase and Sale Agreement for sale and transfer of an approximately 27.45-acre parcel of real property in the Spring Creek Lakes Redevelopment Project Area, identified in the legal description provided in Exhibit “A” (“Property”); and

WHEREAS, in connection with the Developer’s prospective sale of the Property, Developer desires to assign certain of its rights under the Original Agreement; and

WHEREAS, the City and the Developer now desire to amend the Original Agreement, First Amendment and Second Amendment as provided herein to allow for Developer’s assignment

of certain of its rights; and

WHEREAS, The City has determined that the execution of an amendment to the Original Agreement, First Amendment and Second Amendment is in the best interests of the City.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF LOVES PARK, COUNTY OF WINNEBAGO AND COUNTY OF BOONE, ILLINOIS, AS FOLLOWS:

1. The above recitals are incorporated herein and made a part hereof.
2. The City hereby approves the execution of that Third Amendment to the Redevelopment Agreement by and between the City and Developer in substantially the same form as attached hereto as Exhibit "B" ("Third Amendment").
3. The Mayor is hereby authorized to sign the Third Amendment as well as any other necessary documentation required to finalize the Third Amendment.
4. This ordinance shall become effective upon its passage, approval and publication as provided by law.

PASSED by the City Council of the City of Loves Park this ____ day of March 2019.

APPROVED:

Mayor Gregory R. Jury

ATTEST:

City Clerk Robert Burden

PUBLISHED:

**Ordinance
EXHIBIT "A"
Legal Description**

LOT ELEVEN (11) AS DESIGNATED UPON PLAT NO. 3 OF THE BUSINESS PARK AT SPRING CREEK LAKES, BEING A RE-SUBDIVISION OF LOTS 2, 3 AND 7 OF PLAT 1 OF THE BUSINESS PARK AT SPRING CREEK LAKES, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER (1/4) OF SECTION 35 AND PART OF THE SOUTHWEST QUARTER (1/4) OF SECTION 36, TOWNSHIP 45 NORTH, RANGE 2 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND PART OF THE NORTHWEST QUARTER (1/4) OF SECTION 1 AND PART OF THE NORTHEAST QUARTER (1/4) OF SECTION 2, TOWNSHIP 44 NORTH, RANGE 2 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND ALSO A RE-SUBDIVISION OF LOT 10 OF PLAT 2 OF THE BUSINESS PARK AT SPRING CREEK LAKES, BEING A RE-SUBDIVISION OF PART OF LOTS 5 AND 6 OF PLAT 1 OF THE BUSINESS PARK AT SPRING CREEK LAKES, ALL BEING A PART OF THE SOUTHWEST QUARTER (1/4) OF SECTION 36, TOWNSHIP 45 NORTH, RANGE 2 EAST OF THE THIRD PRINCIPAL MERIDIAN, THE PLAT OF WHICH SUBDIVISION IS RECORDED MARCH 6, 2019 IN BOOK 49 OF PLATS ON PAGE 163A AS DOCUMENT NO. 20191005390 IN THE RECORDER'S OFFICE OF WINNEBAGO COUNTY, ILLINOIS; SITUATED IN THE COUNTY OF WINNEBAGO AND THE STATE OF ILLINOIS.

Parcel Identification No. _____

**Ordinance
EXHIBIT "B"
Third Amendment**

**THIRD AMENDMENT TO THE REDEVELOPMENT AGREEMENT FOR
SCL BUSINESS PARK, LLC**

This Third Amendment to the Redevelopment Agreement for SCL Business Park, LLC (“**Third Amendment**”), dated as of this _____ day of March 2019, is made by and between the City of Loves Park, an Illinois municipal corporation, having its offices at 100 Heart Blvd., Loves Park, Illinois (“**City**”) and SCL Business Park, LLC, an Illinois limited liability company, having its principal office at 330 Spring Creek Road, Rockford, Illinois 61107 (“**Developer**”). The City and Developer are referred to herein individually as a “**Party**” and collectively as the “**Parties**” as the context may require.

RECITALS

WHEREAS, the City and Developer entered into that certain Redevelopment Agreement for SCL Business Park, LLC, dated November 6, 2014 (the “**Original Agreement**”);

WHEREAS, the City and Developer entered into that certain First Amendment to the Redevelopment Agreement for SCL Business Park, LLC, dated September 1, 2015 (the “**First Amendment**”) and a Second Amendment to the Redevelopment Agreement dated May 15, 2017 (the “**Second Amendment**”);

WHEREAS, the Original Agreement provides for, among other things, the allocation and payment of Available Developer Property Increment to Developer;

WHEREAS, the Original Agreement allows Developer to assign certain of its rights to receive Available Developer Property Increment thereunder in accordance with certain conditions;

WHEREAS, Section 4.5 of the Original Agreement specifically provides that in the event of a sale of any of the Developer Property to a third-party, the Developer shall be allowed to assign to said purchaser all future increment associated with the property purchased by said third-party, provided the City should not be required to prorate any calendar year between the assignor and the assignee, and further that any assignment approved under Section 4.5 shall be subject to the conditions and restrictions relating to payment as set forth in the Original Agreement;

WHEREAS, Developer intends to sell the real property legally described in Exhibit “A” (“**2019 Becknell Property**”) to be utilized for the construction of a 310,000 square foot building;

WHEREAS, in connection with the sale of the 2019 Becknell Property, Developer desires to assign certain rights.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Third Amendment and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Developer agree as follows:

**SECTION I
INCORPORATION OF RECITALS**

The Recitals set forth above are an integral part of this Third Amendment and by this reference are incorporated in this Section I.

SECTION II
AMENDMENTS TO ORIGINAL AGREEMENT

All capitalized terms used herein shall have the meaning ascribed to them in the Original Agreement, as modified by the First Amendment and Second Amendment:

2.1 Section 4.7 of the Original Agreement is hereby created to read as follows:

4.7 **Assignment of Rights to Becknell Industrial LLC:** Pursuant to authority granted Developer in Section 4.5 hereof, Developer hereby assigns to Interstate Boulevard Illinois Becknell Investors LLC, a Delaware Limited Liability Company, or its assignee (“**Second Buyer/Second Assignee**”), and Second Buyer/Second Assignee hereby accepts, Developer’s right to receive all Available Developer Property Increment attributable to the 2019 Becknell Property as specifically set forth to be paid to Second Buyer/Second Assignee in the Redevelopment Agreement between the City and Second Buyer/Second Assignee dated _____, 2019 (“**2019 Becknell RDA**”), an unsigned copy of which is attached hereto as Exhibit “B” (“**Assigned Interest**”). This assignment is expressly contingent upon, and shall not be effective unless, Developer transfers title of the 2019 Becknell Property to a third party prior to _____.

SECTION III
CONSENT TO FIRST NATIONAL BANK

All capitalized terms used herein shall have the meaning ascribed to them in the Original Agreement:

3.1 Section 12.16 of the Original Agreement is hereby created to read as follows:

12.16 **Consent of First National Bank:** First National Bank of Omaha, a National Banking Association (“Bank”) hereby acknowledges its notice of and consents to the Assigned Interest granted hereunder by Developer in favor of Second Buyer/Second Assignee. Both First National Bank and Developer consent to the City entering into the 2019 Becknell RDA with Second Buyer/Second Assignee, understanding that the amounts paid to Second Buyer/Second Assignee will no longer be utilized in the determining the amount of Available Developer Property Increment paid to the Developer or otherwise paid to the Registered Owner(s) of the Tax Increment Financing Notes issued by the City to Developer. First National Bank and Developer also understand and agree that the “Added Increment” as defined in Section 4.1 below is not a part of the Available Developer Increment to be paid to the Registered Owner(s) of the Tax Increment Financing Notes issued by the City to Developer. The City had issued three Tax Increment Financing Notes to Developer on January 3, 2015, September 1, 2015 and October 6, 2015 in the cumulative amount of \$2,500,000. The Developer represents and warrants that it is the Registered Owner(s) of the said Tax Increment Finance Notes on the date of this Third Amendment and that it understands that the amounts paid pursuant to the 2019 Becknell RDA will not be available to satisfy the Tax Increment Financing Notes.

SECTION IV
TIF REIMBURSEMENT

4.1 **Maximum TIF Amount Adjustment.** In addition to the reduction in the Maximum TIF Amount referenced in the Second Amendment, the Maximum TIF Amount shall further be reduced by

the amount of Four Million Three Hundred Forty-Three Thousand Three Hundred Sixty-Four Dollars (\$4,343,364.00), which is the Maximum TIF Amount defined in the 2019 Becknell RDA. As a result of those reductions to the Maximum TIF Amount referenced in the Second Amendment and this Third Amendment, the amounts referenced in paragraphs numbered 1-4 in Exhibit C of the Original Agreement shall be adjusted as follows:

- (a) The amount of \$1,000,000 in paragraph 1 shall be reduced to \$_____;
- (b) The amount of \$3,500,000 in paragraph 2 shall be reduced to \$_____;
- (c) The amount of \$4,000,000 in paragraph 3 shall be reduced to \$_____;
- (d) The amount of \$7,500,000 in paragraph 4 shall be reduced to \$_____.

Of the reduced amounts, the parties acknowledge that City has certified \$_____ in Developer Eligible Redevelopment Costs which, after being applied, leaves the remaining amounts of Redevelopment Project Costs which can be certified for each of the following numbered paragraphs in Exhibit C of the Original Agreement:

- (e) The amount of \$_____ for paragraph 1;
- (f) The amount of \$_____ for paragraph 2;
- (g) The amount of \$_____ for paragraph 3;
- (h) The amount of \$_____ for paragraph 4

As indicated in Exhibit C of the Original Agreement, the amount identified in paragraph numbered 4 shall be increased by \$2,000,000 once the Orth Road improvements are completed by Developer.

SECTION V
ORTH ROAD IMPROVEMENTS

5.1 **Orth Road Improvement Timing.** The Developer shall complete the improvements required in Section 5.7 by May 1, 2020. As such all references to January 1, 2025 in Section 5.7 shall be replaced with May 1, 2020.

SECTION VI
ARCHITECTURAL DESIGN CRITERIA

6.1 **Architectural Design Criteria.** Exhibit F of the Original Agreement is replaced with the Architectural Design Criteria attached hereto as Exhibit "C".

SECTION VII
GENERAL

7.1 **Binding Effect.** The Original Agreement, as amended by this Third Amendment, shall continue in full force and effect, subject to the terms and provisions thereof and hereof. In the event of any conflict between the terms of the Original Agreement, this First Amendment or Second

Amendment, the terms of this Third Amendment shall control. This Third Amendment shall be binding upon and inure to the benefit of the City, Developer and their respective successors and permitted assigns.

7.2 **Counterparts**. This Third Amendment may be signed in any number of counterparts, each of which shall be an original, with the main effect as if the signatures thereto and hereto were upon the same instrument.

7.3 **Effective Date**. This Third Amendment shall be effective as of the Effective Date.

[Signature Page To Follow]

SIGNATURE PAGE

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE VOLUNTARILY SET THEIR HANDS AND SEALS ON THIS THIRD AMENDMENT, AND BY DOING SO HAVE ACKNOWLEDGED THAT THEY HAVE READ THE FOREGOING INSTRUMENT IN ITS ENTIRETY AND ACKNOWLEDGE THAT THE SAME IS A LEGALLY BINDING AGREEMENT, AND THAT THEY HAVE CONSCIOUSLY EXECUTED THE SAME AS THEIR OWN FREE AND VOLUNTARY ACT AND DO HEREBY SUBMIT TO AND ACKNOWLEDGE THE TERMS AND CONDITIONS HEREIN.

SCL Business Park, LLC, an Illinois limited liability company

By: Anderson Land Holdings, LLC, Its Manager

By: _____

Timothy R. Fitzgerald, Manager of Anderson Land Holdings LLC

City of Loves Park, an Illinois Municipal Corporation

By: _____

Its: _____

ATTEST:

City Clerk

THE AUTHORIZED AGENT OF FIRST NATIONAL BANK OF OMAHA WHOSE SIGNATURE IS SET FORTH BELOW HAS EXECUTED THIS THIRD AMENDMENT FOR THE SOLE PURPOSE OF EFFECTING THE CONSENT AND ACKNOWLEDGMENT SET FORTH IN THE NEWLY CREATED SECTION 12.16 REFERENCED ABOVE.

**First National Bank of Omaha,
a National Banking Association**

By: _____

Its: _____

EXHIBIT "A"

20019 Becknell Property Legal Description

LOT ELEVEN (11) AS DESIGNATED UPON PLAT NO. 3 OF THE BUSINESS PARK AT SPRING CREEK LAKES, BEING A RE-SUBDIVISION OF LOTS 2, 3 AND 7 OF PLAT 1 OF THE BUSINESS PARK AT SPRING CREEK LAKES, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER (1/4) OF SECTION 35 AND PART OF THE SOUTHWEST QUARTER (1/4) OF SECTION 36, TOWNSHIP 45 NORTH, RANGE 2 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND PART OF THE NORTHWEST QUARTER (1/4) OF SECTION 1 AND PART OF THE NORTHEAST QUARTER (1/4) OF SECTION 2, TOWNSHIP 44 NORTH, RANGE 2 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND ALSO A RE-SUBDIVISION OF LOT 10 OF PLAT 2 OF THE BUSINESS PARK AT SPRING CREEK LAKES, BEING A RE-SUBDIVISION OF PART OF LOTS 5 AND 6 OF PLAT 1 OF THE BUSINESS PARK AT SPRING CREEK LAKES, ALL BEING A PART OF THE SOUTHWEST QUARTER (1/4) OF SECTION 36, TOWNSHIP 45 NORTH, RANGE 2 EAST OF THE THIRD PRINCIPAL MERIDIAN, THE PLAT OF WHICH SUBDIVISION IS RECORDED MARCH 6, 2019 IN BOOK 49 OF PLATS ON PAGE 163A AS DOCUMENT NO. 20191005390 IN THE RECORDER'S OFFICE OF WINNEBAGO COUNTY, ILLINOIS; SITUATED IN THE COUNTY OF WINNEBAGO AND THE STATE OF ILLINOIS.

Parcel Identification No. _____

EXHIBIT “B”

2019 Becknell RDA

REDEVELOPMENT AGREEMENT FOR
INTERSTATE BOULEVARD ILLINOIS BECKNELL INVESTORS LLC

This Redevelopment Agreement (“**Agreement**”) dated as of this ____ day of _____, 2019 is made by and between the City of Loves Park, Illinois, an Illinois Municipal Corporation, having its principal offices at 100 Heart Boulevard, Loves Park, Illinois (“**City**”) and Interstate Boulevard Illinois Becknell Investors LLC, a Delaware Limited Liability Company having its principal office at 2750 E 146th Street, Suite A, Carmel, Indiana, 46032 (“**Developer**”). All capitalized terms are defined herein or otherwise have such definitions as are set forth in the Industrial Job Recovery Law, 65 ILCS 5/11-74.6-1 *et seq.*, as amended, (the “**Act**”).

RECITALS

WHEREAS, the City is a duly organized and existing municipal corporation created under the provisions of the laws of the State of Illinois and is now operating under the provisions of the Illinois Municipal Code, as supplemented and amended from time to time; and

WHEREAS, pursuant to the Act, the City, by Ordinance Nos. 3770-11, 3771-11 and 3772-11, adopted by the City Council on November 28, 2011, approved a Redevelopment Plan and Project (“**Redevelopment Plan**”), designated a Redevelopment Project Area specifically designated as the “**Spring Creek Lakes Redevelopment Project Area**”, and adopted tax increment allocation financing (“**TIF**”) within the Redevelopment Project Area; and

WHEREAS, the City is authorized under the Act to undertake the redevelopment of the Redevelopment Project Area if the conditions specified in the Act are met, including but not limited to, the approval of redevelopment plans and projects, and the payment of costs of such redevelopment as are permitted under the Act; and

WHEREAS, the Developer is under contract and intends to acquire certain real property located within the Redevelopment Project Area which is legally described and depicted in “**Exhibit A**” attached hereto and made a part hereof (“**Developer Property**”); and

WHEREAS, the Developer intends to undertake the construction of a building on the Developer Property of no less than 310,000 square feet to be utilized for manufacturing, distribution or other purposes which are in compliance with the Act (“**Developer Project**”); and

WHEREAS, the City recognizes that the Developer will need to incur eligible “**Redevelopment Project Costs**”, as that term defined in the Act, by acquiring and developing the Developer Property; and

WHEREAS, the City is willing to reimburse the Developer for a portion of the acquisition, planning, marketing and site preparation costs associated with the Developer Property; and

WHEREAS, increment relating to the Developer Property is currently pledged for the benefit of SCL Business Park, LLC, an Illinois Limited Liability Company (“**SCL**”) and First National Bank of Omaha, a National Banking Association (“**Bank**”); and

WHEREAS, the City’s obligations herein will be subject to the terms of an amendment executed by SCL and Bank to the Redevelopment Agreement entered into by the City and SCL on November 6, 2014 as well as subsequent amendments and promissory notes thereto which will

allow the increment from the Developer Property, as referenced in this Agreement, to be paid to Interstate Boulevard Illinois Becknell Investors LLC, a Delaware Limited Liability Company (“Required Amendments”); and

WHEREAS, the City desires to enter into this Agreement with the Developer to provide the Developer with TIF assistance in order to defray certain Redevelopment Project Costs relating to the Developer Project; and

WHEREAS, the Developer Property is and shall remain subject to the terms and conditions of those Annexation Agreements recorded against the Developer Property, as amended from time to time; and

WHEREAS, the Developer shall cooperate and not object to the formation or amendments of a Special Service Area by the City over the Developer Property to pay for costs associated with the maintenance and repair of bioswales, culverts, storm water piping, landscaping and parkways located in the public rights-of-way as well as storm water detention, ponds and private roadways (if any) which are not properly maintained or landscaped without regard as to whether the same is on private property, as well as for the other purposes the special service area was mentioned in the annexation agreement(s) of all or part of the Developer Property with the City of Loves Park (“**Maintenance SSA**”); and

WHEREAS, the City, after due and careful consideration, has concluded that the development of the Developer Property and the utilization of TIF assistance, will further the growth of the City, facilitate the development of the Redevelopment Project Area, increase the assessed valuation of real estate situated within the Redevelopment Project Area, increase the economic activity within the City as a whole, provide a substantial number of jobs to residents of the City and otherwise be in the best interests of the City.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and Developer agree as follows:

SECTION I
INCORPORATION OF RECITALS

The Recitals set forth above are an integral part of this Agreement and by this reference are incorporated in this Section I.

SECTION II
REPRESENTATIONS AND WARRANTIES

2.1. **Representations and Warranties of Developer**. To induce the City to execute this Agreement and perform the obligations of the City hereunder, Developer hereby represents and warrants to the City as follows:

(a) Developer is a duly organized and existing limited liability company in good standing under the laws of the State of Delaware authorized to do business in Illinois;

(b) No litigation or proceedings are pending, or to the best of Developer’s knowledge, are threatened against Developer, which could: (i) affect the ability of Developer to

perform its obligations pursuant to and as contemplated by the terms and provisions of this Agreement; or (ii) materially affect the operation or financial condition of Developer;

(c) To the best of Developer's knowledge, the execution, delivery and performance by Developer of this Agreement does not constitute, and will not, upon giving of notice or lapse of time, or both, constitute a breach or default or "event of default" under any other agreement to which Developer is a party to or by which it may be bound;

(d) The parties executing this Agreement on behalf of Developer have been duly authorized by all appropriate action to enter into, execute, and deliver this Agreement and perform the terms and obligations contained herein;

(e) Developer is under contract to acquire the fee simple legal title of the Developer Property;

(f) Developer agrees to pay all costs associated with the Developer Project as set forth in this Agreement and to indemnify and hold the City harmless therefrom; and

(g) The above representations and warranties are made in addition to all other representations and warranties made throughout this Agreement.

2.2. **Representations and Warranties of the City.** To induce the Developer to execute this Agreement and to perform the Developer's obligations hereunder, the City hereby represents and warrants to the Developer as follows:

(a) The City is an Illinois municipal corporation duly incorporated and existing under the laws of the State of Illinois, and is authorized to and has the power to enter into, and by proper action has been duly authorized to execute, deliver and perform this Agreement; and

(b) Subject to the City obtaining the Required Amendments, neither the execution and delivery of this Agreement by the City, the consummation of the transactions contemplated hereby by the City, nor the fulfillment of or compliance with the terms and conditions of this Agreement by the City conflicts with or will result in a breach of any of the terms, conditions or provisions of any offerings or disclosure statement made or to be made on behalf of the City or any other agreement to which the City is a party.

2.3. **Survival of Representations and Warranties.** The parties agree that, to the best of their respective knowledge, all of their representations and warranties set forth in this Agreement are true as of the execution date of this Agreement and shall survive for the term of this Agreement.

SECTION III **DEVELOPER OBLIGATIONS**

3.1. **Acquisition of Property & Construction of Facility.** Developer shall acquire title to the Developer Property and complete construction of a new building (the "**Facility**") of no less than 310,000 square feet to be utilized primarily for manufacturing, industrial, warehousing or distribution purposes, with an occupancy permit for said space to be obtained no later than May 1, 2020. The exterior walls of the Facility will be constructed of pre-cast concrete. All construction shall comply with all federal, state and local regulations, codes, ordinances and laws of general

applicability (all as amended from time-to-time), as well as meet or exceed the **Design Criteria** attached hereto as **Exhibit “B”** and comply with other agreements of record, including but not limited to applicable annexation agreements (collectively, the **“Legal Requirements”**). Any construction must be subject to the City’s standard review and approval process for other development and construction projects occurring throughout the City.

3.2. **Responsibility for Developer Project Costs.** The Developer shall remain ultimately responsible for all costs associated with the obligations of this Agreement for the Developer Project, and does hereby agree to indemnify and hold the City harmless from any costs or liability it may incur in connection with the same. The City shall have no obligation to perform or pay for any portion of the Developer Project.

3.3. **Eligible Redevelopment Project Costs.** **“Developer Eligible Redevelopment Project Costs”** are those Redevelopment Project Costs incurred and paid by Developer which the Developer shall be reimbursed from Available Developer Property Increment (defined in Section 4.3), to the extent available and up to the Maximum TIF Amount (defined in Section 5.1). Developer Eligible Redevelopment Costs will be limited to those Redevelopment Project Costs as allowed by the Act which shall include but not be limited to the acquisition of the Developer Property, costs of surveys, architectural planning, engineering planning, site preparation costs and costs of marketing.

3.4. **Utilization.** The Developer Property shall at all times be utilized in a manner consistent with manufacturing, industrial, warehousing or distribution purposes as well as other permissible uses identified in or allowed by the Act and the Redevelopment Plan, provided the same complies with the Legal Requirements.

3.5. **Plans and specifications.** All site, architectural and engineering drawings and specifications (the **“Plans”**) for the Developer Property, inclusive of the Plans for the building(s) to be erected on the Developer Property, shall be submitted to the City by Developer at its sole cost and expense and shall be reviewed and processed by the City or its agents pursuant to City Ordinance, as amended from time-to-time, and as set forth below. Such Plans shall conform to the Legal Requirements.

3.6. **City’s Right to Monitor and Inspect Developer Property.** The City’s right to inspect the Developer Property, and the construction of improvements or operation of businesses located thereon, shall not be greater than those which apply to other property generally throughout the City. All such inspections shall be conducted in accordance with the City Ordinances.

3.7. **Real Estate Taxes.** To the extent required by law, Developer shall pay all real estate tax bills, inclusive of any special assessments and special service area taxes levied upon the Developer Property, on or before the date on which they are due and payable. The payment of such sums in a timely fashion is a condition precedent to receipt by Developer of any reimbursements described in this Agreement. During the term of this Agreement, Developer shall not undertake to contest the real estate taxes levied against its property.

SECTION IV
TAX INCREMENT FINANCING

4.1. **Tax Increment Allocation Financing of Redevelopment Project Costs.** Developer has represented to the City that, but for tax increment financing, the Developer Project would not be economically viable. The Parties agree that tax increment allocation financing, implemented in accordance with the terms and provisions of the Act and this Agreement, will be a source of providing partial funding for the Developer Project to make the Developer Project economically viable within the City.

4.2. **Authenticating the Developer Eligible Redevelopment Project Costs.** Prior to the City's certification of costs as Developer Eligible Redevelopment Project Costs in accordance with this Agreement, and to establish a right of reimbursement for specific Developer Eligible Redevelopment Project Cost under this Agreement, Developer shall submit to the City or its designee a written statement setting forth the amount of specific Developer Eligible Redevelopment Project Cost for which certification is sought (each a "**Request for Certification**"). Such Request for Certification shall be accompanied by a signed real estate settlement closing statement, real estate transfer declaration statement, copy of the deed containing evidence of recording the Winnebago County Recorder's Office transferring title to Developer and such other evidence as the City or its designee shall reasonably require evidencing that Developer has incurred and paid the Developer Eligible Redevelopment Project Costs sought to be certified. If a Request for Certification is deficient, the City shall notify the Developer of the specific deficiencies and the Developer shall have the opportunity to cure such deficiency. Upon the Developer's delivery of reasonably sufficient evidence the City shall certify such costs in accordance with this Agreement.

4.3. **Available Tax Increment and Priority of Payment.** For the purposes of this Agreement, the term "**Developer Property Increment**" means one hundred percent (100%) of that portion of the ad valorem taxes if any, arising from the taxes levied upon the Developer Property upon which a building is constructed and an occupancy permit granted thereto, which taxes are actually collected and which are attributable to the increases in the then current equalized assessed valuation ("**EAV**") of the Developer Property over and above the total initial EAV of the Developer Property as determined by the Winnebago County Clerk pursuant to the Act, and further in accordance with this Agreement, and which includes any replacement, substitute or amended taxes. For the purposes of this Agreement, "**Available Developer Property Increment**" means the One Hundred percent (100%) of the Developer Property Increment which is deposited into the Special Tax Allocation Fund, as hereinafter defined, attributable to tax years 2020 through 2024 and Eighty percent (80%) of the Developer Property Increment deposited into the Special Tax Allocation Fund attributable to tax years 2025 through 2029. The parties to this Agreement acknowledge that any Developer Property Increment attributable to a specific tax year is billed in the following calendar year by the Winnebago County Treasurer. For example, Developer Property Increment attributable to tax year 2020 is billed, and payment due, in calendar year 2021 by the Winnebago County Treasurer. "**Special Tax Allocation Fund**" ("**STAF**") means the separate City account into which the Developer Property Increment and other incremental taxes generated within the Redevelopment Project Area are, from time to time, deposited.

4.4. **Restrictions on Assignment.** Developer shall not assign any of its rights or obligations under this Agreement without the express prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed and for which the City may

require the assignee to assume certain obligations of this Agreement. Notwithstanding the foregoing, Developer shall have the right to assign this Agreement at any time to any corporation, partnership or other business entity controlled by Developer or by the majority of the members or officers thereof or to any land trust of which Developer or other business entity controlled by Developer or the majority of the members or officers thereof is the beneficiary. For purposes of this Section, Developer shall not be deemed to be in control of another business entity unless Developer or a majority of the members of Developer has an ownership interest in such business entity equal to or greater than 51%. Furthermore, the assignee shall also expressly adopt and confirm the Developer's representations and warranties which are contained in this Agreement as of the time of the assignment. Notwithstanding the foregoing, Developer shall be able to assign its rights to payments to be received by it to a lender in order to secure loans relating to its obligations under this Agreement or to construct buildings on the Developer Property.

SECTION V **CITY OBLIGATIONS**

5.1. **Payment of Available Developer Property Increment.** On or before December 1st of each year, the City shall determine the amount of Available Developer Property Increment available to make payment to reimburse Developer for any Developer Eligible Redevelopment Project Costs which have been certified by the City. The City will issue payment of the same to Developer within forty-five days thereof. The maximum cumulative amount to be paid out by the City pursuant to this Agreement shall not exceed Four Million Three Hundred Forty Three Thousand Three Hundred Sixty Four Dollars (\$4,343,364.00) ("**Maximum TIF Amount**").

5.2. **Obligations of City.**

(a) All payment obligations on the part of the City contained in this Agreement are contingent upon and shall be payable solely from the annual receipt of Available Developer Property Increment paid into the STAF and further subject to the provisions of the Act and this Agreement.

(b) The City will have no obligation to issue any Bonds or borrow any funds.

(c) This Agreement is subject to the Required Amendments being executed prior to April 10, 2019.

SECTION VI **COMPLIANCE WITH LAW**

6.1. **Defense of Industrial Jobs Recovery Law District:** In the event that any court or governmental agency having jurisdiction over enforcement of the Act and the subject matter contemplated by this Agreement shall determine that this Agreement or payments to be made hereunder are contrary to law, or in the event that the legitimacy of the Redevelopment Project Area is otherwise challenged before a court or governmental agency having jurisdiction thereof, the City and Developer shall reasonably cooperate with each other concerning an appropriate strategy acceptable to both parties to defend the validity of the Redevelopment Project Area, and this Agreement. Furthermore, each party shall pay their respective legal fees, court costs and other expenses directly related to defense of the Redevelopment Project Area that each party shall incur as a result of defense of the Redevelopment Project Area. In the event of an adverse lower court

or agency ruling, payments of tax increment allocation financing shall be suspended during the pendency of any appeal thereof, but such payments shall be reinstated retroactively if such adverse ruling is reversed by the reviewing court or agency and to the extent that the STAF has received such increment.

6.2. **Use of Land.** Developer intends that the Developer Property shall be utilized solely in a manner consistent with the Act and as further restricted by this Agreement and the Annexation Agreement. To the extent that it should be determined by the State of Illinois or by a court of competent jurisdiction that the Developer has not met the requirements of the Act, such determination will be an additional Event of Default hereunder such that Developer shall not be entitled to any further distributions of increment and, to the extent required by law, any reimbursement of funds determined to have been paid to Developer in error or in violation of the Act shall be immediately due and payable from Developer to the City.

6.3. **Compliance with Law.** Neither Developer nor any of its contractors, subcontractors or material suppliers shall discriminate based upon race, color, religion, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military status, parental status or source of income in the construction of the Developer Project and shall comply with any and all federal, state and local laws, statutes, ordinances or regulations with regard to non-discrimination in the construction of the Developer Project. To the extent required by law, public works projects will be performed in accordance with prevailing wage laws.

SECTION VII **INSURANCE DURING TERM OF AGREEMENT**

7.1. Prior to commencement of a portion or all of the Developer Project, the Developer shall procure, at the Developer's cost and expense, and shall maintain in full force and effect until each and every obligation of the Developer contained in this Agreement has been fully paid or performed, a policy or policies of general commercial comprehensive liability insurance and, during any period of construction, contractor's liability insurance and worker's compensation insurance, with liability coverage under each such policy to be not less than \$1,000,000 for each occurrence and including automobile insurance coverage. All such policies shall protect the Developer against any liability incidental to the use of or resulting from any claim for injury or damage occurring in or about the Developer Project or the improvements or the construction and improvement thereof and shall name the City as an additional named insured waiving any right of subrogation.

SECTION VIII **DEFAULT REMEDIES**

8.1. **Defaults/Remedies:** If, subject to Section 8.2, either party defaults under this Agreement or fails to perform or keep any term or condition required to be performed or kept by such Party, the defaulting party shall, upon written notice from the other non-defaulting party, proceed to cure or remedy such default or breach within sixty (60) days after receipt of such notice. In the case of an uncured City default, the Developer shall have as its sole and exclusive remedy the right of specific performance. In the event of an uncured default by Developer, the City will be under no obligation to continue any payments of Available Developer Property Increment, may terminate all pledges of Available Developer Property Increment, and may cancel this Agreement and/or any future payments due hereunder. The City will have the right to require specific

performance or to perform any term hereof and then be entitled to indemnity for the costs thereof from Developer. Provided the default by Developer is cured within sixty (60) days, those annual payments which would have been paid, if not for Developer default, will then be paid to Developer.

8.2. **Event of Default.** For purposes of the Agreement, the occurrence of any one or more of the following (or any other events identified elsewhere in this agreement as an Event of Default), shall constitute an “**Event of Default**”:

(a) If, at any time, any material term, warranty, representation or statement made or furnished by the City or Developer (including the representations and warranties of Developer described in Section 2.1 hereof) is not true and correct in any material respect because of which either Party is unable to fulfill its obligations hereunder; or

(b) Failure by Developer to meet any of the conditions, obligations or covenants contained in this Agreement, including but not limited to the failure of Developer to construct the Facility in the manner and within the time described in this Agreement; or

(c) If any petition is filed by or against the City or Developer under the Federal Bankruptcy Code or any similar state or federal law, whether now or hereinafter existing (and in the case of involuntary proceedings, failure to cause the same to be vacated, stayed or set aside within ninety (90) days after filing); or

(d) If any lender of Developer (or a lender of any affiliated entity of Developer), forecloses on any of the Developer Property or accepts a deed in lieu of foreclosure from Developer for any of the Developer Property or if any portions of the Developer Property are in any other manner surrendered to a lender; or

(e) If City fails to make payment to Developer of tax increment allocation which is due under this Agreement pursuant to Section 5.1, unless such payment is determined to be disallowed under the Act; or

(f) If Developer fails to pay any real estate tax when due; or

(g) Any assignment, pledge, encumbrance, transfer or other disposition which is prohibited under this Agreement; or

(h) If Developer fails to pay any SSA payment.

8.3. **Waiver and Estoppel.** Any delay by the City or Developer in instituting or prosecuting any actions or proceedings or otherwise asserting its rights shall not operate as a waiver of such rights or operate to deprive the City or Developer of or limit such rights in any way. No waiver made by the City or Developer with respect to any specific default shall be construed, considered or treated as a waiver of the rights of the City or Developer with respect to any other defaults;

SECTION IX **PERFORMANCE**

9.1. **Time of the Essence.** Time is of the essence of the Agreement.

9.2. **Permitted Delays.** Neither the City nor Developer shall be considered in breach of its obligations with respect to the commencement and completion of the Developer Project or provision of tax increment financing, because of the impossibility of performance or the limitations of Illinois law, or in the event of delay in the performance of such obligations due to unforeseeable causes beyond such Party's control and without such Party's fault or negligence, including any delays or due to court order, acts of God, acts of the public enemy, acts of the United States, acts of the other party, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, embargoes, economic exigencies, shortages of labor or materials and severe weather or delays of subcontractors due to such causes or any other situation recognized as a force majeure. Subject to the limitations and restrictions of the Act, the time for the performance of the obligations shall be extended for the period of the enforced delay if the City or Developer, as the case may be, seeking the extension shall notify in writing the other within twenty (20) days after the beginning or any such delay and shall use diligence in attempting to complete performance of its obligations.

SECTION X **GENERAL**

10.1. **Drafter Bias:** The parties acknowledge and agree that the terms of this Agreement are the result of on-going and extensive negotiations between the parties, both of whom are represented by independent counsel, and that this Agreement is a result of said negotiations. As a result, in the event that a court is asked to interpret any portion of this contract, neither of the parties shall be deemed the drafter hereof and neither shall be given benefit of such presumption that may be set out by law.

10.2. **Partnership not intended nor Created:** Nothing in this Agreement is intended to, nor shall be deemed to, constitute a partnership or joint venture between the Parties.

10.3. **Entirety and Binding Effect:** This document represents the entirety of the agreement between the Parties and shall be binding upon them and inure to the benefit of and be enforceable by and against their respective successors, personal representatives, heirs, legatees, and assigns.

10.4. **Survival of Provisions:** If any of the provisions of this agreement are found to be invalid pursuant to any statute or rule of law of the State of Illinois or of any court of competent jurisdiction in which it may be so brought to be enforced, then such provisions shall be deemed null and void to the extent that they may conflict herewith, however the remainder of this instrument and any other application of such provision shall not be affected thereby.

10.5. **Use of Headings:** The headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference. They do not purport to, and shall not be deemed to, define, limit or extend the scope or intent of the clauses to which they pertain.

10.6. **Amendments and Modifications:** Except as otherwise provided for herein, this Agreement may not be amended, modified, or terminated, nor may any obligation hereunder be waived orally, and no such amendment, modification, termination, or waiver shall be effective for any purpose unless it is in writing, and bears the signatures of all of the Parties hereto.

10.7. **Defaults:** In the event of a default and/or litigation arising out of enforcement of this Agreement, the parties hereto acknowledge and agree that each party shall be responsible for their own costs, charges, expenses, and their reasonable attorney's fees arising as a result thereof.

10.8. **Indemnification:** Developer agrees to indemnify and hold the City and its officers, elected and appointed, employees, agents, and attorneys harmless from and against any and all loss, damage, cost, expense, injury, or liability the City may suffer or incur in connection with the failure of the Developer to comply with this Agreement. Developer further agrees to defend, indemnify and hold harmless City for any liability other than that resulting solely from a negligent act of the City.

10.9. **Third Party Participation:** Developer may request that the City allow a third party purchaser of a parcel or parcels (or portion thereof) of the Developer Property to enter into a Redevelopment Agreement with the City, but no right shall arise from this provision and the City shall have sole and absolute discretion in whether to enter into any such additional redevelopment agreements. The City may require as a condition of any such third party Redevelopment Agreement that Developer modify the terms of this Agreement such that the increment relating to the land subject to the third party agreement, to the extent that the same would have been paid to Developer under the terms of this Agreement, shall be shared in whole or in part with such third party.

10.10. **Notices:** All Notices and requests pursuant to this Agreement shall be sent as follows:

To the Developer:

Interstate Boulevard Illinois Becknell Investors LLC
c/o _____
2750 East 146th Street, Suite 200,
Carmel, Indiana 46033

With Copy to:

Patrick Harrington
Harrington & Tock LLC
201 W Springfield Ave.
Suite 601
Champaign, Illinois 61820

To the City:

City of Loves Park
Attn: Mayor
100 Heart Boulevard
Loves Park, IL 61111

With Copy To:

Gino Galluzzo
Nicolosi Galluzzo LLP
6735 Vistagreen Way, Suite 210
Rockford, IL 61107

Or at such other addresses as the Parties may indicate in writing to the other either by personal delivery, courier, nationally recognized delivery service (i.e. Fed Ex) or by certified mail, return receipt requested, with proof of delivery thereof. Mailed Notices shall be deemed effective on the third day after mailing; all other notices shall be effective when delivered.

10.11. **Counterparts**: This Agreement may be signed in any number of counterparts, each of which shall be an original, with the main effect as if the signatures thereto and hereto were upon the same instrument.

10.12. **Previous Agreements**: The foregoing is the agreement between the Parties hereto as it now exists at the execution hereof and it is expressly understood, agreed and distinctly acknowledged that all previous communications and negotiation between the Parties, either written or oral, that are not contained herein are hereby withdrawn, nullified, and void.

10.13. **Construction**: This Agreement shall be subject to and construed under the laws of the State of Illinois

10.14. **Venue**: The exclusive venue of any action involving this Agreement between the parties shall be the Circuit Court for the 17th Judicial Circuit, Winnebago County, Illinois.

REST OF PAGE INTENTIONALLY BLANK

SIGNATURE PAGE

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE VOLUNTARILY SET THEIR HANDS AND SEALS ON THIS AGREEMENT, AND BY DOING SO HAVE ACKNOWLEDGED THAT THEY HAVE READ THE FOREGOING INSTRUMENT IN ITS ENTIRETY AND ACKNOWLEDGE THAT THE SAME IS A LEGALLY BINDING AGREEMENT, AND THAT THEY HAVE CONSCIOUSLY EXECUTED THE SAME AS THEIR OWN FREE AND VOLUNTARY ACT AND DO HEREBY SUBMIT TO AND ACKNOWLEDGE THE TERMS AND CONDITIONS HEREIN.

**Interstate Boulevard Illinois Becknell Investors LLC,
a Delaware Limited Liability Company**

By: _____

Its: _____

**City of Loves Park,
an Illinois Municipal Corporation**

By: _____
Gregory R. Jury, Mayor

ATTEST

By: _____
Robert Burden, City Clerk

EXHIBIT A

LEGAL DESCRIPTION AND DEPICTION OF DEVELOPER PROPERTY

LOT ELEVEN (11) AS DESIGNATED UPON PLAT NO. 3 OF THE BUSINESS PARK AT SPRING CREEK LAKES, BEING A RE-SUBDIVISION OF LOTS 2, 3 AND 7 OF PLAT 1 OF THE BUSINESS PARK AT SPRING CREEK LAKES, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER (1/4) OF SECTION 35 AND PART OF THE SOUTHWEST QUARTER (1/4) OF SECTION 36, TOWNSHIP 45 NORTH, RANGE 2 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND PART OF THE NORTHWEST QUARTER (1/4) OF SECTION 1 AND PART OF THE NORTHEAST QUARTER (1/4) OF SECTION 2, TOWNSHIP 44 NORTH, RANGE 2 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND ALSO A RE-SUBDIVISION OF LOT 10 OF PLAT 2 OF THE BUSINESS PARK AT SPRING CREEK LAKES, BEING A RE-SUBDIVISION OF PART OF LOTS 5 AND 6 OF PLAT 1 OF THE BUSINESS PARK AT SPRING CREEK LAKES, ALL BEING A PART OF THE SOUTHWEST QUARTER (1/4) OF SECTION 36, TOWNSHIP 45 NORTH, RANGE 2 EAST OF THE THIRD PRINCIPAL MERIDIAN, THE PLAT OF WHICH SUBDIVISION IS RECORDED MARCH 6, 2019 IN BOOK 49 OF PLATS ON PAGE 163A AS DOCUMENT NO. 20191005390 IN THE RECORDER'S OFFICE OF WINNEBAGO COUNTY, ILLINOIS; SITUATED IN THE COUNTY OF WINNEBAGO AND THE STATE OF ILLINOIS.

Parcel Identification No. _____

EXHIBIT B

ARCHITECTURAL DESIGN CRITERIA

Overall Character

The buildings throughout Developer Property will be a tasteful mixture of traditional and contemporary forms and elements. The entry of each building will be signaled in mass and form, while the remaining extents of the buildings vary in composition and/or massing so as not to be repetitive. Each building will have at least one signature, architectural massing element that sets it apart from the rest and identifies it better than signage can alone. These forms very often signal the entry, although they do not need to.

Materials

As a high quality development that is built for the future, buildings located on the Developer Property will employ materials with a consideration to the sense of quality they invoke, their historic usage, and longevity. The colors used by buildings reinforce the goal to foster a warm and inviting atmosphere. A building's primary color will predominantly be warm tones common to the earth, stone, prairie and forest. Contrasting, bold and saturated colors are acceptable as accents but should not be a dominant color.

Buildings may vary greatly in the materials they employ, but do not use those that invoke images not in keeping with a high quality, timeless, professional environment. The buildings throughout the Developer Property shall adhere to the following:

1. Roof System:
 - a. The roof system shall have a parapet around the entire perimeter of the building for the purpose of concealing from ground view, while at the same grade level, the membrane or metal panel roof system.
 - b. No visible gable roof systems allowed.
 - c. No exposed gutters allowed.
 - d. Interior or exterior roof drainage system utilizing scuppers will be allowed.

2. Exterior Wall System Finish and Facade System Finish Material:
 - a. The following are not allowed building materials unless the City's Director of Community Development approves the architectural design of the building, in its sole discretion:
 - i. Metal except as appropriate for accent (i.e. metal cladding, window systems, doors etc); or
 - ii. Corrugated metals; or
 - iii. EIFS; or
 - iv. Wood materials; or
 - v. Flat CMU units; or
 - vi. Wood or hardy plank; or
 - vii. Vinyl or Plastic; or

- viii. Exposed Concrete / Cinder Block (without rustication); or
- ix. Asphalt shingle

This exhibit shall not waive any of the development or design guidelines referenced in the annexation agreements of record relating to the Developer Property, but shall act to further restrict the same. The requirements of this Exhibit may be waived by written express intent referencing waiver of specific requirements of this exhibit by the Mayor or Director of Community Development.

EXHIBIT “C”

Architectural Design Criteria

Overall Character

The buildings throughout Developer Property will be a tasteful mixture of traditional and contemporary forms and elements. The entry of each building will be signaled in mass and form, while the remaining extents of the buildings vary in composition and/or massing so as not to be repetitive. Each building will have at least one signature, architectural massing element that sets it apart from the rest and identifies it better than signage can alone. These forms very often signal the entry, although they do not need to.

Materials

As a high-quality development that is built for the future, buildings located on the Developer Property will employ materials with a consideration to the sense of quality they invoke, their historic usage, and longevity. The colors used by buildings reinforce the goal to foster a warm and inviting atmosphere. A building's primary color will predominantly be warm tones common to the earth, stone, prairie and forest. Contrasting, bold and saturated colors are acceptable as accents but should not be a dominant color.

Buildings may vary greatly in the materials they employ, but do not use those that invoke images not in keeping with a high quality, timeless, professional environment. The buildings throughout the Developer Property shall adhere to the following:

1. Roof System:

- a. The roof system shall have a parapet around the entire perimeter of the building for the purpose of concealing from ground view, while at the same grade level, the membrane or metal panel roof system.
- b. No visible gable roof systems allowed.
- c. No exposed gutters allowed.
- d. Interior or exterior roof drainage system utilizing scuppers will be allowed.

2. Exterior Wall System Finish and Facade System Finish Material:

- a. The following are not allowed building materials unless the City's Director of Community Development approves the architectural design of the building, in its sole discretion:
 - i. Metal except as appropriate for accent (i.e. metal cladding, window systems, doors etc); or
 - ii. Corrugated metals; or
 - iii. EIFS; or
 - iv. Wood materials; or
 - v. Flat CMU units; or
 - vi. Wood or hardy plank; or
 - vii. Vinyl or Plastic; or
 - viii. Exposed Concrete / Cinder Block (without rustication); or
 - ix. Asphalt shingle

This exhibit shall not waive any of the development or design guidelines referenced in the annexation agreements of record relating to the Developer Property but shall act to further restrict the same. The requirements of this Exhibit may be waived by written express intent referencing waiver of specific requirements of this exhibit by the Mayor or Director of Community Development.

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CITY OF LOVES PARK TO ENTER INTO A
REDEVELOPMENT AGREEMENT WITH INTERSTATE BOULEVARD ILLINOIS BECKNELL
INVESTORS LLC

WHEREAS, the City of Loves Park ("City") is a duly organized and existing municipality created under the provisions of the laws of the State of Illinois, and is now operating under the provisions of the Illinois Municipal Code, as supplemented and amended from time to time; and

WHEREAS, the City has duly established an Industrial Jobs Recovery Law District known and the "Spring Creek Lakes Redevelopment Project Area" under the provisions of the Industrial Jobs Recovery Law, 65 ILCS 5/11-74.6-1 *et seq.* ("Law"), within which Spring Creek Lakes Redevelopment Project Area the City has implemented Tax Increment Financing; and

WHEREAS, the City is authorized under the provisions of Law to enter into agreements which are necessary or incidental to the implementation of the redevelopment plan and project for the Spring Creek Lakes Redevelopment Project Area; and

WHEREAS, the Developer intends to acquire certain real property located within the Spring Creek Lakes Redevelopment Project Area ("Developer Property"); and

WHEREAS, the City has entered into negotiations with Interstate Boulevard Illinois Becknell Investors LLC, an Illinois Limited Liability Company ("Developer"), for the purposes of drafting a redevelopment agreement to assist with the development of the Developer's property; and

WHEREAS, The City has determined that the execution of such a redevelopment agreement with the Developer is in the best interests of the City.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL
OF THE CITY OF LOVES PARK, COUNTY OF WINNEBAGO AND COUNTY OF BOONE,
ILLINOIS, AS FOLLOWS:

1. The above recitals are incorporated herein and made a part hereof.
2. The City hereby approves the execution of that certain Redevelopment Agreement by and between the City and Developer in substantially the same form as attached hereto as Exhibit "A" ("Redevelopment Agreement").
3. The Mayor is hereby authorized to sign the Redevelopment Agreement as well as any other necessary documentation required to finalize the Redevelopment Agreement.
4. This ordinance shall become effective upon its passage, approval and publication as provided by law.

PASSED by the City Council of the City of Loves Park this ____ day of March, 2019.

APPROVED:

Mayor Gregory R. Jury

ATTEST:

City Clerk Robert J. Burden

PUBLISHED:

**Ordinance
EXHIBIT "A"
Redevelopment Agreement**

REDEVELOPMENT AGREEMENT FOR
INTERSTATE BOULEVARD ILLINOIS BECKNELL INVESTORS LLC

This Redevelopment Agreement (“**Agreement**”) dated as of this ____ day of _____, 2019 is made by and between the City of Loves Park, Illinois, an Illinois Municipal Corporation, having its principal offices at 100 Heart Boulevard, Loves Park, Illinois (“**City**”) and Interstate Boulevard Illinois Becknell Investors LLC, a Delaware Limited Liability Company having its principal office at 2750 E 146th Street, Suite A, Carmel, Indiana, 46032 (“**Developer**”). All capitalized terms are defined herein or otherwise have such definitions as are set forth in the Industrial Job Recovery Law, 65 ILCS 5/11-74.6-1 *et seq.*, as amended, (the “**Act**”).

RECITALS

WHEREAS, the City is a duly organized and existing municipal corporation created under the provisions of the laws of the State of Illinois and is now operating under the provisions of the Illinois Municipal Code, as supplemented and amended from time to time; and

WHEREAS, pursuant to the Act, the City, by Ordinance Nos. 3770-11, 3771-11 and 3772-11, adopted by the City Council on November 28, 2011, approved a Redevelopment Plan and Project (“**Redevelopment Plan**”), designated a Redevelopment Project Area specifically designated as the “**Spring Creek Lakes Redevelopment Project Area**”, and adopted tax increment allocation financing (“**TIF**”) within the Redevelopment Project Area; and

WHEREAS, the City is authorized under the Act to undertake the redevelopment of the Redevelopment Project Area if the conditions specified in the Act are met, including but not limited to, the approval of redevelopment plans and projects, and the payment of costs of such redevelopment as are permitted under the Act; and

WHEREAS, the Developer is under contract and intends to acquire certain real property located within the Redevelopment Project Area which is legally described and depicted in “**Exhibit A**” attached hereto and made a part hereof (“**Developer Property**”); and

WHEREAS, the Developer intends to undertake the construction of a building on the Developer Property of no less than 310,000 square feet to be utilized for manufacturing, distribution or other purposes which are in compliance with the Act (“**Developer Project**”); and

WHEREAS, the City recognizes that the Developer will need to incur eligible “**Redevelopment Project Costs**”, as that term defined in the Act, by acquiring and developing the Developer Property; and

WHEREAS, the City is willing to reimburse the Developer for a portion of the acquisition, planning, marketing and site preparation costs associated with the Developer Property; and

WHEREAS, increment relating to the Developer Property is currently pledged for the benefit of SCL Business Park, LLC, an Illinois Limited Liability Company (“**SCL**”) and First National Bank of Omaha, a National Banking Association (“**Bank**”); and

WHEREAS, the City’s obligations herein will be subject to the terms of an amendment executed by SCL and Bank to the Redevelopment Agreement entered into by the City and SCL on November 6, 2014 as well as subsequent amendments and promissory notes thereto which will

allow the increment from the Developer Property, as referenced in this Agreement, to be paid to Interstate Boulevard Illinois Becknell Investors LLC, a Delaware Limited Liability Company (“Required Amendments”); and

WHEREAS, the City desires to enter into this Agreement with the Developer to provide the Developer with TIF assistance in order to defray certain Redevelopment Project Costs relating to the Developer Project; and

WHEREAS, the Developer Property is and shall remain subject to the terms and conditions of those Annexation Agreements recorded against the Developer Property, as amended from time to time; and

WHEREAS, the Developer shall cooperate and not object to the formation or amendments of a Special Service Area by the City over the Developer Property to pay for costs associated with the maintenance and repair of bioswales, culverts, storm water piping, landscaping and parkways located in the public rights-of-way as well as storm water detention, ponds and private roadways (if any) which are not properly maintained or landscaped without regard as to whether the same is on private property, as well as for the other purposes the special service area was mentioned in the annexation agreement(s) of all or part of the Developer Property with the City of Loves Park (“**Maintenance SSA**”); and

WHEREAS, the City, after due and careful consideration, has concluded that the development of the Developer Property and the utilization of TIF assistance, will further the growth of the City, facilitate the development of the Redevelopment Project Area, increase the assessed valuation of real estate situated within the Redevelopment Project Area, increase the economic activity within the City as a whole, provide a substantial number of jobs to residents of the City and otherwise be in the best interests of the City.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and Developer agree as follows:

SECTION I
INCORPORATION OF RECITALS

The Recitals set forth above are an integral part of this Agreement and by this reference are incorporated in this Section I.

SECTION II
REPRESENTATIONS AND WARRANTIES

2.1. **Representations and Warranties of Developer**. To induce the City to execute this Agreement and perform the obligations of the City hereunder, Developer hereby represents and warrants to the City as follows:

(a) Developer is a duly organized and existing limited liability company in good standing under the laws of the State of Delaware authorized to do business in Illinois;

(b) No litigation or proceedings are pending, or to the best of Developer’s knowledge, are threatened against Developer, which could: (i) affect the ability of Developer to

perform its obligations pursuant to and as contemplated by the terms and provisions of this Agreement; or (ii) materially affect the operation or financial condition of Developer;

(c) To the best of Developer's knowledge, the execution, delivery and performance by Developer of this Agreement does not constitute, and will not, upon giving of notice or lapse of time, or both, constitute a breach or default or "event of default" under any other agreement to which Developer is a party to or by which it may be bound;

(d) The parties executing this Agreement on behalf of Developer have been duly authorized by all appropriate action to enter into, execute, and deliver this Agreement and perform the terms and obligations contained herein;

(e) Developer is under contract to acquire the fee simple legal title of the Developer Property;

(f) Developer agrees to pay all costs associated with the Developer Project as set forth in this Agreement and to indemnify and hold the City harmless therefrom; and

(g) The above representations and warranties are made in addition to all other representations and warranties made throughout this Agreement.

2.2. **Representations and Warranties of the City.** To induce the Developer to execute this Agreement and to perform the Developer's obligations hereunder, the City hereby represents and warrants to the Developer as follows:

(a) The City is an Illinois municipal corporation duly incorporated and existing under the laws of the State of Illinois, and is authorized to and has the power to enter into, and by proper action has been duly authorized to execute, deliver and perform this Agreement; and

(b) Subject to the City obtaining the Required Amendments, neither the execution and delivery of this Agreement by the City, the consummation of the transactions contemplated hereby by the City, nor the fulfillment of or compliance with the terms and conditions of this Agreement by the City conflicts with or will result in a breach of any of the terms, conditions or provisions of any offerings or disclosure statement made or to be made on behalf of the City or any other agreement to which the City is a party.

2.3. **Survival of Representations and Warranties.** The parties agree that, to the best of their respective knowledge, all of their representations and warranties set forth in this Agreement are true as of the execution date of this Agreement and shall survive for the term of this Agreement.

SECTION III **DEVELOPER OBLIGATIONS**

3.1. **Acquisition of Property & Construction of Facility.** Developer shall acquire title to the Developer Property and complete construction of a new building (the "**Facility**") of no less than 310,000 square feet to be utilized primarily for manufacturing, industrial, warehousing or distribution purposes, with an occupancy permit for said space to be obtained no later than May 1, 2020. The exterior walls of the Facility will be constructed of pre-cast concrete. All construction shall comply with all federal, state and local regulations, codes, ordinances and laws of general

applicability (all as amended from time-to-time), as well as meet or exceed the **Design Criteria** attached hereto as **Exhibit “B”** and comply with other agreements of record, including but not limited to applicable annexation agreements (collectively, the **“Legal Requirements”**). Any construction must be subject to the City’s standard review and approval process for other development and construction projects occurring throughout the City.

3.2. **Responsibility for Developer Project Costs.** The Developer shall remain ultimately responsible for all costs associated with the obligations of this Agreement for the Developer Project, and does hereby agree to indemnify and hold the City harmless from any costs or liability it may incur in connection with the same. The City shall have no obligation to perform or pay for any portion of the Developer Project.

3.3. **Eligible Redevelopment Project Costs.** **“Developer Eligible Redevelopment Project Costs”** are those Redevelopment Project Costs incurred and paid by Developer which the Developer shall be reimbursed from Available Developer Property Increment (defined in Section 4.3), to the extent available and up to the Maximum TIF Amount (defined in Section 5.1). Developer Eligible Redevelopment Costs will be limited to those Redevelopment Project Costs as allowed by the Act which shall include but not be limited to the acquisition of the Developer Property, costs of surveys, architectural planning, engineering planning, site preparation costs and costs of marketing.

3.4. **Utilization.** The Developer Property shall at all times be utilized in a manner consistent with manufacturing, industrial, warehousing or distribution purposes as well as other permissible uses identified in or allowed by the Act and the Redevelopment Plan, provided the same complies with the Legal Requirements.

3.5. **Plans and specifications.** All site, architectural and engineering drawings and specifications (the **“Plans”**) for the Developer Property, inclusive of the Plans for the building(s) to be erected on the Developer Property, shall be submitted to the City by Developer at its sole cost and expense and shall be reviewed and processed by the City or its agents pursuant to City Ordinance, as amended from time-to-time, and as set forth below. Such Plans shall conform to the Legal Requirements.

3.6. **City’s Right to Monitor and Inspect Developer Property.** The City’s right to inspect the Developer Property, and the construction of improvements or operation of businesses located thereon, shall not be greater than those which apply to other property generally throughout the City. All such inspections shall be conducted in accordance with the City Ordinances.

3.7. **Real Estate Taxes.** To the extent required by law, Developer shall pay all real estate tax bills, inclusive of any special assessments and special service area taxes levied upon the Developer Property, on or before the date on which they are due and payable. The payment of such sums in a timely fashion is a condition precedent to receipt by Developer of any reimbursements described in this Agreement. During the term of this Agreement, Developer shall not undertake to contest the real estate taxes levied against its property.

SECTION IV
TAX INCREMENT FINANCING

4.1. **Tax Increment Allocation Financing of Redevelopment Project Costs.** Developer has represented to the City that, but for tax increment financing, the Developer Project would not be economically viable. The Parties agree that tax increment allocation financing, implemented in accordance with the terms and provisions of the Act and this Agreement, will be a source of providing partial funding for the Developer Project to make the Developer Project economically viable within the City.

4.2. **Authenticating the Developer Eligible Redevelopment Project Costs.** Prior to the City's certification of costs as Developer Eligible Redevelopment Project Costs in accordance with this Agreement, and to establish a right of reimbursement for specific Developer Eligible Redevelopment Project Cost under this Agreement, Developer shall submit to the City or its designee a written statement setting forth the amount of specific Developer Eligible Redevelopment Project Cost for which certification is sought (each a "**Request for Certification**"). Such Request for Certification shall be accompanied by a signed real estate settlement closing statement, real estate transfer declaration statement, copy of the deed containing evidence of recording the Winnebago County Recorder's Office transferring title to Developer and such other evidence as the City or its designee shall reasonably require evidencing that Developer has incurred and paid the Developer Eligible Redevelopment Project Costs sought to be certified. If a Request for Certification is deficient, the City shall notify the Developer of the specific deficiencies and the Developer shall have the opportunity to cure such deficiency. Upon the Developer's delivery of reasonably sufficient evidence the City shall certify such costs in accordance with this Agreement.

4.3. **Available Tax Increment and Priority of Payment.** For the purposes of this Agreement, the term "**Developer Property Increment**" means one hundred percent (100%) of that portion of the ad valorem taxes if any, arising from the taxes levied upon the Developer Property upon which a building is constructed and an occupancy permit granted thereto, which taxes are actually collected and which are attributable to the increases in the then current equalized assessed valuation ("**EAV**") of the Developer Property over and above the total initial EAV of the Developer Property as determined by the Winnebago County Clerk pursuant to the Act, and further in accordance with this Agreement, and which includes any replacement, substitute or amended taxes. For the purposes of this Agreement, "**Available Developer Property Increment**" means the One Hundred percent (100%) of the Developer Property Increment which is deposited into the Special Tax Allocation Fund, as hereinafter defined, attributable to tax years 2020 through 2024 and Eighty percent (80%) of the Developer Property Increment deposited into the Special Tax Allocation Fund attributable to tax years 2025 through 2029. The parties to this Agreement acknowledge that any Developer Property Increment attributable to a specific tax year is billed in the following calendar year by the Winnebago County Treasurer. For example, Developer Property Increment attributable to tax year 2020 is billed, and payment due, in calendar year 2021 by the Winnebago County Treasurer. "**Special Tax Allocation Fund**" ("**STAF**") means the separate City account into which the Developer Property Increment and other incremental taxes generated within the Redevelopment Project Area are, from time to time, deposited.

4.4. **Restrictions on Assignment.** Developer shall not assign any of its rights or obligations under this Agreement without the express prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed and for which the City may

require the assignee to assume certain obligations of this Agreement. Notwithstanding the foregoing, Developer shall have the right to assign this Agreement at any time to any corporation, partnership or other business entity controlled by Developer or by the majority of the members or officers thereof or to any land trust of which Developer or other business entity controlled by Developer or the majority of the members or officers thereof is the beneficiary. For purposes of this Section, Developer shall not be deemed to be in control of another business entity unless Developer or a majority of the members of Developer has an ownership interest in such business entity equal to or greater than 51%. Furthermore, the assignee shall also expressly adopt and confirm the Developer's representations and warranties which are contained in this Agreement as of the time of the assignment. Notwithstanding the foregoing, Developer shall be able to assign its rights to payments to be received by it to a lender in order to secure loans relating to its obligations under this Agreement or to construct buildings on the Developer Property.

SECTION V **CITY OBLIGATIONS**

5.1. **Payment of Available Developer Property Increment.** On or before December 1st of each year, the City shall determine the amount of Available Developer Property Increment available to make payment to reimburse Developer for any Developer Eligible Redevelopment Project Costs which have been certified by the City. The City will issue payment of the same to Developer within forty-five days thereof. The maximum cumulative amount to be paid out by the City pursuant to this Agreement shall not exceed Four Million Three Hundred Forty Three Thousand Three Hundred Sixty Four Dollars (\$4,343,364.00) ("**Maximum TIF Amount**").

5.2. **Obligations of City.**

(a) All payment obligations on the part of the City contained in this Agreement are contingent upon and shall be payable solely from the annual receipt of Available Developer Property Increment paid into the STAF and further subject to the provisions of the Act and this Agreement.

(b) The City will have no obligation to issue any Bonds or borrow any funds.

(c) This Agreement is subject to the Required Amendments being executed prior to April 10, 2019.

SECTION VI **COMPLIANCE WITH LAW**

6.1. **Defense of Industrial Jobs Recovery Law District:** In the event that any court or governmental agency having jurisdiction over enforcement of the Act and the subject matter contemplated by this Agreement shall determine that this Agreement or payments to be made hereunder are contrary to law, or in the event that the legitimacy of the Redevelopment Project Area is otherwise challenged before a court or governmental agency having jurisdiction thereof, the City and Developer shall reasonably cooperate with each other concerning an appropriate strategy acceptable to both parties to defend the validity of the Redevelopment Project Area, and this Agreement. Furthermore, each party shall pay their respective legal fees, court costs and other expenses directly related to defense of the Redevelopment Project Area that each party shall incur as a result of defense of the Redevelopment Project Area. In the event of an adverse lower court

or agency ruling, payments of tax increment allocation financing shall be suspended during the pendency of any appeal thereof, but such payments shall be reinstated retroactively if such adverse ruling is reversed by the reviewing court or agency and to the extent that the STAF has received such increment.

6.2. **Use of Land.** Developer intends that the Developer Property shall be utilized solely in a manner consistent with the Act and as further restricted by this Agreement and the Annexation Agreement. To the extent that it should be determined by the State of Illinois or by a court of competent jurisdiction that the Developer has not met the requirements of the Act, such determination will be an additional Event of Default hereunder such that Developer shall not be entitled to any further distributions of increment and, to the extent required by law, any reimbursement of funds determined to have been paid to Developer in error or in violation of the Act shall be immediately due and payable from Developer to the City.

6.3. **Compliance with Law.** Neither Developer nor any of its contractors, subcontractors or material suppliers shall discriminate based upon race, color, religion, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military status, parental status or source of income in the construction of the Developer Project and shall comply with any and all federal, state and local laws, statutes, ordinances or regulations with regard to non-discrimination in the construction of the Developer Project. To the extent required by law, public works projects will be performed in accordance with prevailing wage laws.

SECTION VII **INSURANCE DURING TERM OF AGREEMENT**

7.1. Prior to commencement of a portion or all of the Developer Project, the Developer shall procure, at the Developer's cost and expense, and shall maintain in full force and effect until each and every obligation of the Developer contained in this Agreement has been fully paid or performed, a policy or policies of general commercial comprehensive liability insurance and, during any period of construction, contractor's liability insurance and worker's compensation insurance, with liability coverage under each such policy to be not less than \$1,000,000 for each occurrence and including automobile insurance coverage. All such policies shall protect the Developer against any liability incidental to the use of or resulting from any claim for injury or damage occurring in or about the Developer Project or the improvements or the construction and improvement thereof and shall name the City as an additional named insured waiving any right of subrogation.

SECTION VIII **DEFAULT REMEDIES**

8.1. **Defaults/Remedies:** If, subject to Section 8.2, either party defaults under this Agreement or fails to perform or keep any term or condition required to be performed or kept by such Party, the defaulting party shall, upon written notice from the other non-defaulting party, proceed to cure or remedy such default or breach within sixty (60) days after receipt of such notice. In the case of an uncured City default, the Developer shall have as its sole and exclusive remedy the right of specific performance. In the event of an uncured default by Developer, the City will be under no obligation to continue any payments of Available Developer Property Increment, may terminate all pledges of Available Developer Property Increment, and may cancel this Agreement and/or any future payments due hereunder. The City will have the right to require specific

performance or to perform any term hereof and then be entitled to indemnity for the costs thereof from Developer. Provided the default by Developer is cured within sixty (60) days, those annual payments which would have been paid, if not for Developer default, will then be paid to Developer.

8.2. **Event of Default.** For purposes of the Agreement, the occurrence of any one or more of the following (or any other events identified elsewhere in this agreement as an Event of Default), shall constitute an “**Event of Default**”:

(a) If, at any time, any material term, warranty, representation or statement made or furnished by the City or Developer (including the representations and warranties of Developer described in Section 2.1 hereof) is not true and correct in any material respect because of which either Party is unable to fulfill its obligations hereunder; or

(b) Failure by Developer to meet any of the conditions, obligations or covenants contained in this Agreement, including but not limited to the failure of Developer to construct the Facility in the manner and within the time described in this Agreement; or

(c) If any petition is filed by or against the City or Developer under the Federal Bankruptcy Code or any similar state or federal law, whether now or hereinafter existing (and in the case of involuntary proceedings, failure to cause the same to be vacated, stayed or set aside within ninety (90) days after filing); or

(d) If any lender of Developer (or a lender of any affiliated entity of Developer), forecloses on any of the Developer Property or accepts a deed in lieu of foreclosure from Developer for any of the Developer Property or if any portions of the Developer Property are in any other manner surrendered to a lender; or

(e) If City fails to make payment to Developer of tax increment allocation which is due under this Agreement pursuant to Section 5.1, unless such payment is determined to be disallowed under the Act; or

(f) If Developer fails to pay any real estate tax when due; or

(g) Any assignment, pledge, encumbrance, transfer or other disposition which is prohibited under this Agreement; or

(h) If Developer fails to pay any SSA payment.

8.3. **Waiver and Estoppel.** Any delay by the City or Developer in instituting or prosecuting any actions or proceedings or otherwise asserting its rights shall not operate as a waiver of such rights or operate to deprive the City or Developer of or limit such rights in any way. No waiver made by the City or Developer with respect to any specific default shall be construed, considered or treated as a waiver of the rights of the City or Developer with respect to any other defaults;

SECTION IX **PERFORMANCE**

9.1. **Time of the Essence.** Time is of the essence of the Agreement.

9.2. **Permitted Delays.** Neither the City nor Developer shall be considered in breach of its obligations with respect to the commencement and completion of the Developer Project or provision of tax increment financing, because of the impossibility of performance or the limitations of Illinois law, or in the event of delay in the performance of such obligations due to unforeseeable causes beyond such Party's control and without such Party's fault or negligence, including any delays or due to court order, acts of God, acts of the public enemy, acts of the United States, acts of the other party, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, embargoes, economic exigencies, shortages of labor or materials and severe weather or delays of subcontractors due to such causes or any other situation recognized as a force majeure. Subject to the limitations and restrictions of the Act, the time for the performance of the obligations shall be extended for the period of the enforced delay if the City or Developer, as the case may be, seeking the extension shall notify in writing the other within twenty (20) days after the beginning or any such delay and shall use diligence in attempting to complete performance of its obligations.

SECTION X **GENERAL**

10.1. **Drafter Bias:** The parties acknowledge and agree that the terms of this Agreement are the result of on-going and extensive negotiations between the parties, both of whom are represented by independent counsel, and that this Agreement is a result of said negotiations. As a result, in the event that a court is asked to interpret any portion of this contract, neither of the parties shall be deemed the drafter hereof and neither shall be given benefit of such presumption that may be set out by law.

10.2. **Partnership not intended nor Created:** Nothing in this Agreement is intended to, nor shall be deemed to, constitute a partnership or joint venture between the Parties.

10.3. **Entirety and Binding Effect:** This document represents the entirety of the agreement between the Parties and shall be binding upon them and inure to the benefit of and be enforceable by and against their respective successors, personal representatives, heirs, legatees, and assigns.

10.4. **Survival of Provisions:** If any of the provisions of this agreement are found to be invalid pursuant to any statute or rule of law of the State of Illinois or of any court of competent jurisdiction in which it may be so brought to be enforced, then such provisions shall be deemed null and void to the extent that they may conflict herewith, however the remainder of this instrument and any other application of such provision shall not be affected thereby.

10.5. **Use of Headings:** The headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference. They do not purport to, and shall not be deemed to, define, limit or extend the scope or intent of the clauses to which they pertain.

10.6. **Amendments and Modifications:** Except as otherwise provided for herein, this Agreement may not be amended, modified, or terminated, nor may any obligation hereunder be waived orally, and no such amendment, modification, termination, or waiver shall be effective for any purpose unless it is in writing, and bears the signatures of all of the Parties hereto.

10.7. **Defaults:** In the event of a default and/or litigation arising out of enforcement of this Agreement, the parties hereto acknowledge and agree that each party shall be responsible for their own costs, charges, expenses, and their reasonable attorney's fees arising as a result thereof.

10.8. **Indemnification:** Developer agrees to indemnify and hold the City and its officers, elected and appointed, employees, agents, and attorneys harmless from and against any and all loss, damage, cost, expense, injury, or liability the City may suffer or incur in connection with the failure of the Developer to comply with this Agreement. Developer further agrees to defend, indemnify and hold harmless City for any liability other than that resulting solely from a negligent act of the City.

10.9. **Third Party Participation:** Developer may request that the City allow a third party purchaser of a parcel or parcels (or portion thereof) of the Developer Property to enter into a Redevelopment Agreement with the City, but no right shall arise from this provision and the City shall have sole and absolute discretion in whether to enter into any such additional redevelopment agreements. The City may require as a condition of any such third party Redevelopment Agreement that Developer modify the terms of this Agreement such that the increment relating to the land subject to the third party agreement, to the extent that the same would have been paid to Developer under the terms of this Agreement, shall be shared in whole or in part with such third party.

10.10. **Notices:** All Notices and requests pursuant to this Agreement shall be sent as follows:

To the Developer:

Interstate Boulevard Illinois Becknell Investors LLC
c/o _____
2750 East 146th Street, Suite 200,
Carmel, Indiana 46033

With Copy to:

Patrick Harrington
Harrington & Tock LLC
201 W Springfield Ave.
Suite 601
Champaign, Illinois 61820

To the City:

City of Loves Park
Attn: Mayor
100 Heart Boulevard
Loves Park, IL 61111

With Copy To:

Gino Galluzzo
Nicolosi Galluzzo LLP
6735 Vistagreen Way, Suite 210
Rockford, IL 61107

Or at such other addresses as the Parties may indicate in writing to the other either by personal delivery, courier, nationally recognized delivery service (i.e. Fed Ex) or by certified mail, return receipt requested, with proof of delivery thereof. Mailed Notices shall be deemed effective on the third day after mailing; all other notices shall be effective when delivered.

10.11. **Counterparts**: This Agreement may be signed in any number of counterparts, each of which shall be an original, with the main effect as if the signatures thereto and hereto were upon the same instrument.

10.12. **Previous Agreements**: The foregoing is the agreement between the Parties hereto as it now exists at the execution hereof and it is expressly understood, agreed and distinctly acknowledged that all previous communications and negotiation between the Parties, either written or oral, that are not contained herein are hereby withdrawn, nullified, and void.

10.13. **Construction**: This Agreement shall be subject to and construed under the laws of the State of Illinois

10.14. **Venue**: The exclusive venue of any action involving this Agreement between the parties shall be the Circuit Court for the 17th Judicial Circuit, Winnebago County, Illinois.

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SIGNATURE PAGE

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE VOLUNTARILY SET THEIR HANDS AND SEALS ON THIS AGREEMENT, AND BY DOING SO HAVE ACKNOWLEDGED THAT THEY HAVE READ THE FOREGOING INSTRUMENT IN ITS ENTIRETY AND ACKNOWLEDGE THAT THE SAME IS A LEGALLY BINDING AGREEMENT, AND THAT THEY HAVE CONSCIOUSLY EXECUTED THE SAME AS THEIR OWN FREE AND VOLUNTARY ACT AND DO HEREBY SUBMIT TO AND ACKNOWLEDGE THE TERMS AND CONDITIONS HEREIN.

**Interstate Boulevard Illinois Becknell Investors LLC,
a Delaware Limited Liability Company**

By: _____

Its: _____

**City of Loves Park,
an Illinois Municipal Corporation**

By: _____
Gregory R. Jury, Mayor

ATTEST

By: _____
Robert Burden, City Clerk

EXHIBIT A

LEGAL DESCRIPTION AND DEPICTION OF DEVELOPER PROPERTY

LOT ELEVEN (11) AS DESIGNATED UPON PLAT NO. 3 OF THE BUSINESS PARK AT SPRING CREEK LAKES, BEING A RE-SUBDIVISION OF LOTS 2, 3 AND 7 OF PLAT 1 OF THE BUSINESS PARK AT SPRING CREEK LAKES, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER (1/4) OF SECTION 35 AND PART OF THE SOUTHWEST QUARTER (1/4) OF SECTION 36, TOWNSHIP 45 NORTH, RANGE 2 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND PART OF THE NORTHWEST QUARTER (1/4) OF SECTION 1 AND PART OF THE NORTHEAST QUARTER (1/4) OF SECTION 2, TOWNSHIP 44 NORTH, RANGE 2 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND ALSO A RE-SUBDIVISION OF LOT 10 OF PLAT 2 OF THE BUSINESS PARK AT SPRING CREEK LAKES, BEING A RE-SUBDIVISION OF PART OF LOTS 5 AND 6 OF PLAT 1 OF THE BUSINESS PARK AT SPRING CREEK LAKES, ALL BEING A PART OF THE SOUTHWEST QUARTER (1/4) OF SECTION 36, TOWNSHIP 45 NORTH, RANGE 2 EAST OF THE THIRD PRINCIPAL MERIDIAN, THE PLAT OF WHICH SUBDIVISION IS RECORDED MARCH 6, 2019 IN BOOK 49 OF PLATS ON PAGE 163A AS DOCUMENT NO. 20191005390 IN THE RECORDER'S OFFICE OF WINNEBAGO COUNTY, ILLINOIS; SITUATED IN THE COUNTY OF WINNEBAGO AND THE STATE OF ILLINOIS.

Parcel Identification No. _____

EXHIBIT B

ARCHITECTURAL DESIGN CRITERIA

Overall Character

The buildings throughout Developer Property will be a tasteful mixture of traditional and contemporary forms and elements. The entry of each building will be signaled in mass and form, while the remaining extents of the buildings vary in composition and/or massing so as not to be repetitive. Each building will have at least one signature, architectural massing element that sets it apart from the rest and identifies it better than signage can alone. These forms very often signal the entry, although they do not need to.

Materials

As a high quality development that is built for the future, buildings located on the Developer Property will employ materials with a consideration to the sense of quality they invoke, their historic usage, and longevity. The colors used by buildings reinforce the goal to foster a warm and inviting atmosphere. A building's primary color will predominantly be warm tones common to the earth, stone, prairie and forest. Contrasting, bold and saturated colors are acceptable as accents but should not be a dominant color.

Buildings may vary greatly in the materials they employ, but do not use those that invoke images not in keeping with a high quality, timeless, professional environment. The buildings throughout the Developer Property shall adhere to the following:

1. Roof System:
 - a. The roof system shall have a parapet around the entire perimeter of the building for the purpose of concealing from ground view, while at the same grade level, the membrane or metal panel roof system.
 - b. No visible gable roof systems allowed.
 - c. No exposed gutters allowed.
 - d. Interior or exterior roof drainage system utilizing scuppers will be allowed.

2. Exterior Wall System Finish and Facade System Finish Material:
 - a. The following are not allowed building materials unless the City's Director of Community Development approves the architectural design of the building, in its sole discretion:
 - i. Metal except as appropriate for accent (i.e. metal cladding, window systems, doors etc); or
 - ii. Corrugated metals; or
 - iii. EIFS; or
 - iv. Wood materials; or
 - v. Flat CMU units; or
 - vi. Wood or hardy plank; or
 - vii. Vinyl or Plastic; or

- viii. Exposed Concrete / Cinder Block (without rustication); or
- ix. Asphalt shingle

This exhibit shall not waive any of the development or design guidelines referenced in the annexation agreements of record relating to the Developer Property, but shall act to further restrict the same. The requirements of this Exhibit may be waived by written express intent referencing waiver of specific requirements of this exhibit by the Mayor or Director of Community Development.